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ABSTRACT

This hearing was held to learn about the implementation of the Student Exchange and Visitor Information System (SEVIS), designed to monitor international students studying in the United States, and the interactions among institutions of higher education, the Immigration and Naturalization Service (INS), and the U.S. Department of State. Following opening statements by Representative Peter Hoekstra, Representative John Tierney, Representative Howard P. McKeon, and Representative Rush Holt, testimony was heard from these witnesses: (1) Glenn A. Fine, Inspector General, U.S. Department of Justice; (2) Stephen A. Edson, Acting Managing Director, Directorate of Visa Services, Bureau of Consular Affairs, Department of State; and (3) Janis Sposato, Assistant Deputy Executive Associated Commissioner, Immigration Services Division, INS. Eleven appendixes contain the written statements of these representatives and witnesses. (SLD)

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HOMELAND SECURITY: TRACKING INTERNATIONAL STUDENTS IN HIGHER EDUCATION- PROGRESS AND ISSUES SINCE 9/11

HEARING

BEFORE THE

SUBCOMMITTEE ON 21ST CENTURY COMPETITIVENESS

AND THE

SUBCOMMITTEE ON SELECT EDUCATION

OF THE

COMMITTEE ON EDUCATION AND THE WORKFORCE

ED 473 242

HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

HEARING HELD IN WASHINGTON, DC, SEPTEMBER 24, 2002

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HOMELAND SECURITY: TRACKING INTERNATIONAL STUDENTS IN HIGHER EDUCATION – PROGRESS AND ISSUES SINCE 9/11

TUESDAY, SEPTEMBER 24, 2002

HOUSE OF REPRESENTATIVES,

SUBCOMMITTEE ON 21ST CENTURY COMPETITIVENESS

JOINT WITH THE

SUBCOMMITTEE ON SELECT EDUCATION,

COMMITTEE ON EDUCTION AND THE WORKFORCE,

WASHINGTON, D.C.

The joint subcommittee met, pursuant to call, at 2:00 p.m., in Room 2175, Rayburn House Office Building, Hon. Peter Hoekstra [chairman of the Subcommittee on Select Education] presiding.

Present for the Subcommittee on 21st Century Competitiveness: Representatives McKeon, Johnson, Osborne, Tierney, Holt, Wu, McCollum and Andrews.

Present for the Subcommittee on Select Education: Representatives Hoekstra, Tiberi, Norwood, Scott, Holt and McCollum.

Also Present: Representative Roemer.

Staff Present: Alexa Callin, Communications Staff Assistant; George Conant, Professional Staff Member; Patrick Lyden, Professional Staff Member; Deborah L. Samantar, Committee Clerk/Intern coordinator; Kathleen Smith, Professional Staff Member; Kevin Smith, Senior Communications Counselor; Holli Traud, Legislative Assistant; Heather Valentine, Press Secretary; James Kvall, Minority Legislative Associate; Maggie McDow, Minority Legislative Associate; Joe Novotny, Minority Staff Assistant; and Suzanne Palmer, Minority Legislative Associate.

OPENING STATEMENT OF CHAIRMAN PETER HOEKSTRA, SUBCOMMITTEE ON SELECT EDUCATION, COMMITTEE ON EDUCATION AND THE WORKFORCE, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

Chairman Hoekstra. A quorum being present, the joint hearing of the Subcommittee on Select Education and the Subcommittee on 21st Century Competitiveness will come to order.

I would like to thank my colleague from California, the chairman of the Subcommittee on 21st Century Competitiveness, Mr. McKeon, for agreeing to hold this joint hearing on the policy implementation of tracking international students in higher education.

So that we can get to our witnesses, we have agreed to limit the opening statements to the chairman and the ranking minority members of each subcommittee. With that, I ask unanimous consent that the record remain open 14 days to allow members to insert extraneous material into the official hearing record. Without objection, so ordered.

Thank you for being here today. We appreciate your willingness to share your insights and expertise into the activities of institutions and the various federal agencies that are involved in the monitoring of international students studying in the United States. More importantly, we look forward to the information you can share about how your monitoring activities have changed since 9/11 and the hearing these subcommittees held last October.

We are here today to learn about the implementation of the Student Exchange and Visitor Information System, otherwise referred to as SEVIS, what issues are still outstanding in having it fully operational and what the interactions between all the players, that is, institutions of higher education, INS, and the State Department, have been.

One issue that has gotten some press recently is the concern of some about the January 30, 2003, deadline for the implementation of SEVIS. Some say that the deadline is impossible to meet. Yet others, such as the American Association of State Colleges and Universities, representing more than 430 public 4-year colleges and universities and who submitted testimony for the hearing record, say that the deadline is reasonable. We need to better understand what is driving the issues around this deadline.

We are also interested in hearing the testimony of Mr. Fine, the Department of Justice's Inspector General. He will elaborate on the May 20, 2002, report outlining the problems associated with two of the 19 hijackers in particular, how the SEVIS system may or may not avoid those same problems in the future and what he sees as the outstanding issues associated with student visas.

It will be of great value to hear from all of our witnesses today as to what, if anything, each has done outside the SEVIS system to insure that students who enter this country for the purposes of studying here actually fulfill that obligation and can be accounted for.

During our hearing last fall, we learned that government agencies needed to improve their sharing of information and that this could be improved without congressional action. I believe we referred to this problem as a cultural issue and an issue of trust. I am very interested to hear if any of those barriers, presumed or real, between law enforcement agencies and others have been removed and what effect, if any, the development of a Department of Homeland Security will have on this issue.

Clearly, security for the citizens of the United States must be our priority. However, having said that, we also want to ensure that students from around the world continue to have access to the best postsecondary education system available. We also want to continue the sharing of cultures and ideas, which makes the world in which we live safer overall by removing many stereotypes and misperceptions. There must be a way to accomplish both of these goals and to do so in an efficient and effective manner.

Welcome.

WRITTEN OPENING STATEMENT OF CHAIRMAN PETER HOEKSTRA, SUBCOMMITTEE ON SELECT EDUCATION, COMMITTEE ON EDUCATION AND THE WORKFORCE, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C. – APPENDIX A

Mr. Tierney. How are you?

Chairman Hoekstra. Good. Usually I turn there, and I see Mr. Roemer, but he is serving on the Intelligence Committee. There is also a hearing going on in the Intelligence Committee, which is where Mr. Roemer is.

So that is the end of my opening statement. I will yield to Mr. Tierney for his opening statement.

OPENING STATEMENT OF REPRESENTATIVE JOHN F. TIERNEY, SUBCOMMITTEE ON 21ST CENTURY COMPETITIVENESS, COMMITTEE ON SELECT EDUCATION, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

Mr. Tierney. Thank you very much, Mr. Chairman.

I am pleased to join the committee here today, which is not in my usual assignment but pinch-hitting. I appreciate the fact you are holding this hearing and want to add my appreciation to all of the witnesses who are going to testify in front of the subcommittee today. I am interested in hearing about the progress of the Immigration and Naturalization Service's efforts to administer the student and visitor exchange program. There was a hearing last October. I understand that.

I happen to be the only New England member of the Education and the Workforce Committee. In the time that I have been back in the New England area I have heard from a number of educators. In Massachusetts alone, there are 117 institutions of higher education, and all of them seem to want the international student visa program to work. Obviously, the educators in these schools, as in schools around the country, I would imagine, have as their primary goal a safe and secure learning environment within a free and secure nation.

They have expressed to me their strong view that welcoming international students to the campuses affords us an opportunity to interact with the rest of the world. These students, many who are raised in vastly different cultures, including those where they are taught negative stereotypes about the United States, are able to experience an environment of positive interchanges while they contribute to the intellectual achievements and cultural richness of our universities, promote understanding across cultures and acquire an appreciation for the American values of freedom and democracy.

At the same time, we all know that poor administration of the student visa program could be a threat. Two of the September 11 hijackers manipulated the student visa program to remain in the country. We must do all that we can to prevent this from ever happening again.

Some propose a total ban, an end to new student visas. But that is not a silver bullet. Punishing all foreign students in an effort to root out a few nefarious characters will not solve the problem and will have a chilling effect on academic freedom.

Indeed, the President of the Massachusetts Institute of Technology Charles Vest, wrote to me to express this concern, saying: "A blanket freeze is likely to be as unworkable as it is unsound and will be counterproductive to our strategic and economic needs. Even a limited ban on student visas will seriously damage our essential relationships with other nations. It will aggravate our national shortage of highly skilled scientists and engineers."

We can reduce risk and promote vibrant international educational experiences at American schools. Indeed we must do so or risk a brain drain to other countries, including Canada, Australia and the United Kingdom, that do not close their borders to students.

That is why I prefer a balanced approach to allow foreign students who play by the rules to continue their education in America. In December, I joined with my colleagues under the leadership of George Miller and cosponsored House Resolution 3515, the International Student Responsibility Act, some of whose provisions are contained in SEVIS. We proposed to require criminal background checks before students are allowed to enter the United States and close tracking while they are here.

When SEVIS began, we were told that the administration would dedicate significant resources so that educators had the technical assistance they needed to keep international student programs in place, so that computers could interface, and so that the government agencies such as the INS, Justice and State which had not effectively communicated before 9/11 could cooperate.

Unfortunately, as the new school year begins, many students are being left behind due to inefficient implementation of this program.

As the Boston Globe reported in just yesterday's paper, hundreds of students enrolling or returning to Massachusetts colleges and universities have been delayed or prevented from entering the country because of new security policies, including extensive backgrounds checks on male applicants from Arab and Muslim countries. One of those students was a Third Year Harvard law student who is now stranded in London without a visa. He noted that adding hurdles for students might be more harmful than helpful in the long run to our national interest. He was quoted as telling the Globe it is getting at the wrong people. It is targeting liberal Arabs who would go back home and change their countries.

That result would not be acceptable to the vast majority of international students who have played by the rules and pose no threat to us nor to American schools that are enriched when international students, including the law student I just quoted, share their experiences with other children and take home positive views of the United States such as academic freedom and equality of opportunity.

I expect that our administration witnesses will convey Congress' concern that they make every effort to use the tools and the taxpayer dollars that have been given to them to implement this program effectively, and I look forward to the testimony today. Thank you, Mr. Chairman.

WRITTEN OPENING STATEMENT OF REPRESENTATIVE JOHN F. TIERNEY, SUBCOMMITTEE ON 21ST CENTURY COMPETITIVENESS, COMMITTEE ON EDUCATION AND THE WORKFORCE, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C. – SEE APPENDIX B

Chairman Hoekstra. Thank you.

I would now like to recognize my colleague from California, the chairman of the Subcommittee on 21st Century Competitiveness, Mr. McKeon, for the purpose of an opening statement.

OPENING STATEMENT OF CHAIRMAN HOWARD P. "BUCK" MCKEON, SUBCOMMITTEE ON 21ST CENTURY COMPETITIVENESS, COMMITTEE ON EDUCATION AND THE WORKFORCE, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

Chairman McKeon. Thank you, Mr. Chairman.

I also want to welcome our witnesses here today and thank them for taking the time to appear before the subcommittees to inform us about what has occurred in improving the monitoring of international students attending postsecondary institutions in United States.

One of the concerns I have, and I mentioned this when we last had this hearing, there was a lot of emphasis on students coming into the country on visas, but that was actually a small portion. I don't remember the exact number, but it was about 500,000 students coming in, but the other people that enter the country on visas was vastly higher than that. Our responsibility is to students, but there are much greater numbers coming into the country on visas, and I hope equal attention is placed on those people coming in.

In the hearing held last October, we learned a great deal about how an international student wanting to study in the United States goes about obtaining an I-20 from a school, which is necessary to apply for a student visa. We learned about the different kinds of visas: F visas for those studying on the undergraduate level; J visas for exchange students; M visas for those seeking specific technical training; and B visas for tourists. We also learned, due to the straightforward and upfront testimony of our witnesses, some of the shortcomings of what was then the monitoring system, as well as some weak points in the sharing or lack of sharing of information between agencies involved in the monitoring of these students. We also heard from an institution and from students explaining what the process is like for them.

The previous testimony made clear to me the importance of continuing the exchange of ideas and cultures through international education and bringing the best and the brightest from other countries together with students here in the United States. It was also made clear that international students are an important source of revenue for postsecondary institutions in the United States. We are looking constantly for ways to improve our economy, and this is a very clean way to improve the environment. It is high tech, but it is does not do anything to harm the atmosphere.

We are here today to learn what has occurred since that last hearing and the tragic events of September 11 to preserve the safety and security of our citizens, while at the same time preserving the right of those seeking to enter the United States to avail them of the best education the world has to offer. We are also here to learn about the implementation of the Student Exchange and Visitor Information System, also known as SEVIS, and what the system will actually do and what the responsibilities are of each of the various parties, that is, the Immigration and Naturalization Service, the State Department and postsecondary institutions.

It is encouraging to hear that all parties are committed to getting the SEVIS system up and running. I am interested in hearing how the process has gone thus far and to learn what, if any, problems still exist in its full implementation.

It will also be important to hear from the Inspector General from the Department of Justice as to what still needs to be done even once the SEVIS system is up and running. In the May 20, 2002, report the Inspector General indicated that it would take more than just SEVIS to fully monitor and secure the student visa system. I am looking forward to the insight and expertise that you can share with us.

Finally, what, if anything, do we do here in Congress? What do we need to do to insure everyone's continued cooperation and commitment to the SEVIS system and in the ongoing quest for education, freedom and safety here in the United States? Thank you again for joining us here to

discuss this important topic.

I yield back my time, Mr. Chairman.

WRITTEN OPENING STATEMENT OF CHAIRMAN HOWARD P. "BUCK" MCKEON, SUBCOMMITTEE ON 21ST CENTURY COMPETITIVENESS, COMMITTEE ON EDUCATION AND THE WORKFORCE, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C. – SEE APPENDIX C

Chairman Hoekstra. I thank my colleague from California.

I would like to recognize Mr. Holt from New Jersey.

OPENING STATEMENT OF REPRESENTATIVE RUSH HOLT, SUBCOMMITTEE ON 21ST CENTURY COMPETITIVENESS AND SUBCOMMITTE ON SELECT EDUCATION, COMMITTEE ON EDUCATION AND THE WORKFORCE, U.S. HOUSE OF REPRESENTATIVES. WASHINGTON, D.C.

Mr. Holt. Thank you, Mr. Chairman. I would like to make a statement, and I am pleased to be here at this hearing on this important subject of student visas and how we monitor foreign students.

It has been a little over a year now, and as members of Congress, at the behest of all of our constituents, we have been looking carefully at our national security and ways to make the country more secure. Last October, we held a hearing here on student visas and found many holes in the way that the system had been running.

We all know the story of Hani Hanjour, who legally entered the U.S on a student visa but didn't show up at the school he was going to attend. Mohamed Atta and Marwan Alshehhi entered on student visas and both were approved by the INS to change their student visas from visitor to student. We all know the embarrassing situation when the change of status applications were approved nearly ten months after submitting them to the INS and six months after completing training at the aviation school and, in fact, notification being received well after September 11.

In the 1996 immigration bill that we passed into law, we require the INS to fully establish a foreign student tracking system by 2003. If the Student Exchange Visitor Information System, or SEVIS, had been installed, would we have been able to find these three and deport them before that tragic day in September? This is a question that haunts everyone who has been involved in this, and I hope that today's witnesses will be able to help us examine this and understand it and understand related questions better.

Of the seven million foreigners who enter the U.S. in a year, a half million of them are here on student visas. Foreign students can bring a rich cultural and intellectual experience to our educational system, and we need to find a system that both allows students to enter the country,

while thoroughly insuring that we are not allowing terrorists. It is a difficult task.

The PATRIOT Act accelerated the implementation of SEVIS to January 30, upcoming, 2003; and I am interested to hear more about the SEVIS system and whether that date can be achieved with full implementation.

And, of course, now and for months and years to come we should continually re-examine the balance here. We are obviously not setting out to harm schools. We are not setting out to harm the half million legitimate students who come here to study, nor the millions of American students who benefit from the presence of these foreign students. Freedom of access is central to education.

I think it is worth noting that, for example, the American Association of State Colleges and Universities has sent letters to some of us members pledging full support to the implementation of SEVIS by January 30.

So we will, for a long time, be looking for the right balance. But today I think we will be looking especially at the completeness of the implementation of the system as it has been presented, and I am eager to hear what the witnesses have to say. I would like to extend my thanks to you, the witnesses, for being here today; and I look forward to hearing from each of you.

Thank you.

Chairman Hoekstra. Thank you, Mr. Holt.

Let me introduce the witnesses that we have today.

We have Mr. Glenn Fine. Mr. Fine was confirmed by the United States Senate as Inspector General of the Department of Justice on December 15, 2000. He had served as the Acting Inspector General since August of 2000.

Mr. Fine joined the Department of Justice Office of the Inspector General in January of 1995. He began, as Special Counsel to the Inspector General and in 1996 became the Director of the OIG's Special Investigations and Review Unit. Welcome, Mr. Fine.

We also have Mr. Steven Edson. Mr. Edson joined the Foreign Service in 1981 and is currently serving as the Acting Managing Director of the Visa Services Directorate, Bureau of Consular Affairs, at the State Department.

Mr. Edson was Consul General at the U.S. Embassy in Jakarta, Indonesia, from June of 1998 until January of 2001. Prior to that, Mr. Edson held overseas assignments in Japan, Thailand and India and started his career in Jakarta in 1982. Welcome to you.

We have Ms. Janis Sposato. Ms. Sposato joined the United States Department of Justice in 1975 and has held various positions throughout her tenure there.

In her current position, Ms. Sposato is responsible for the adjudication of applications and petitions for immigration benefits. She also has held positions as General Counsel and Deputy Assistant Attorney General in the Justice Management Division and has also served in the Office of Legal Counsel as an attorney advisor. Welcome to you.

Then Dr. David Ward. Dr. Ward assumed his position as president of the American Council on Education, ACE, on September 1, 2001.

Prior to taking on the presidency of ACE, Mr. Ward served as chancellor of the University of Wisconsin-Madison for eight years. He served as a faculty member for 25 years before that.

Dr. Ward came to the United States on a student visa in 1960, and in 1976 he became a United States citizen. Congratulations. I just yesterday had the opportunity to participate in a ceremony where we swore in 450 new citizens, some of who had come here on student visas as well.

So, with that, Mr. Fine, we will begin with you; and you know how the lights work. Green says you have got plenty of time, yellow says you are running low, and red says you are out. But, you know, it is a very important subject. We are very interested in hearing all of your testimony, and I think that we are going to get a presentation on SEVIS as well, so that is going to take a little bit longer.

But we will begin with you, Mr. Fine.

STATEMENT OF GLENN A. FINE, INSPECTOR GENERAL, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, D.C.

Mr. Fine. Mr. Chairman and members of the subcommittees, thank you for inviting me to testify regarding the INS's tracking of foreign students studying in the United States.

In May, 2002, the Office of the Inspector General issued a lengthy report entitled, the Immigration and Naturalization Service's Contacts With Two September 11 Terrorists: A Review of the INS's Admissions of Mohamed Atta and Marwan Alshehhi, Its Processing of Their Change of Status Applications, and Its Efforts to Track Foreign Students in the United States.

In this report, the OIG examined several related issues: first, the INS's contacts with and admissions into the country of Atta and Alshehhi; second, the INS's delayed notification to a flight school in March, 2002, six months after the terrorist attacks of September 11, that the two men's change of status applications had been approved; and, third, the INS's monitoring and tracking of foreign students in general, including the INS's new system, SEVIS.

My testimony today will primarily address the third issue, the INS's system for monitoring foreign students. I will discuss the problems in the existing system, the clear benefits of the Internet-based system that the INS is implementing called SEVIS, and the significant progress that

the INS has made in implementing SEVIS and the continuing concerns the OIG has about its full implementation.

The INS's previous system for recording information about the status of foreign students and schools approved to accept foreign students was antiquated, incomplete and riddled with inaccuracies. For example, of 200 schools we reviewed in the database, we found that 86 were no longer in operation. Of the 114 schools still in operation, 40 had incorrect addresses and 16 had incorrect names.

We believe that the new system, SEVIS, will address many of the INS's problems in tracking foreign students. For example, schools will enter information about students directly into SEVIS, and the INS and schools will be able to identify more easily when a student's change of status has been approved, when a student entered the United States and whether the student is actually attending school.

Since we issued our report in May, the INS has made very significant strides towards implementing SEVIS, which I describe in more detail in my written statement. Yet, despite these substantial efforts, we continue to believe that full implementation of SEVIS is unlikely by the deadline of January 30, 2003. Our ongoing concerns have more to do with issues such as the process of certifying school eligibility and SEVIS training for INS employees and school officials rather than with SEVIS's technical implementation.

First, the INS is requiring site visits of flight, vocational language and other high-risk schools prior to certifying them as eligible to accept foreign students. The INS intends to have contract investigators using INS-developed checklists to perform these site visits. The INS has recently indicated that it will use three contract investigation companies to perform the site visits and that by January 30 the contract investigators will be able to visit all the high-risk schools that apply for certification.

We believe that this will be a difficult task, and we are concerned about the comprehensiveness of the contractor's reviews, particularly given the expedited time frame. We are also concerned about the INS's ability to adequately train and oversee the contractors who will be under significant time constraints to complete the visits. We believe the INS needs to develop an oversight process that will insure the adequacy of these reviews.

Further, the INS has not agreed with our recommendation to devote full-time personnel in the INS districts to SEVIS. We are concerned that without dedicating full-time personnel INS staff will not be able to devote adequate attention to their SEVIS duties when other priorities arise.

In addition, the INS must train its employees who will be responsible for overseeing and using SEVIS. The INS held SEVIS training sessions and requested that each district office send a representative. But because the INS had not decided who in each district would be responsible for SEVIS, there is no assurance that the appropriate INS personal attended the training session. SEVIS training must also be provided to INS adjudicators, inspectors and investigators.

Similarly, the INS needs to provide training on SEVIS to school representatives. Throughout the past year, the INS has held SEVIS demonstrations for school officials. However, officials did not necessarily attend these sessions from smaller schools, including flight schools that are probably most in need of such training.

The subcommittees have also asked for suggestions about what Congress can do to improve the monitoring of international students studying in the United States.

First, we believe that continued congressional interest and oversight can have an important impact on the program. The INS has made substantial strides towards implementing SEVIS, but we believe SEVIS should remain an INS priority, particularly when other new and important issues confront the INS in the future. Continued congressional oversight can help insure that full implementation of SEVIS remains a priority.

Second, the INS needs sufficient resources to fully and effectively implement the system, including following up on indications of fraud.

Third, Congress should consider whether to require that part-time foreign students be tracked in SEVIS. Currently, only data pertaining to full-time students will be included in SEVIS.

In sum, I want to make clear that we believe that SEVIS will significantly enhance the INS's ability to track foreign students in the United States and will improve its ability to detect and prevent fraud. I also believe that the INS should be credited for making significant strides in implementing SEVIS.

It appears that the INS will have a system operational and available by January 30, 2003, and will have taken many critical systems towards fully implementing the system. But while we believe that SEVIS will be operational by January 30, we question whether it will be fully implemented by that date.

For SEVIS to be fully implemented and for the program to succeed, we believe the INS must, first, insure that all high-risk schools are certified through site visits by January 30; second, dedicate sufficient resources to adequately training INS personnel and school officials; third, insure that SEVIS is available at all ports of entry, service centers, district offices and consular posts; fourth, insure that information from SEVIS is analyzed and used to identify noncompliant and fraudulent operations; and, fifth, follow up whether the SEVIS data indicates fraud in the program. We recognize that these will not be easy tasks, but we believe they are necessary for SEVIS to achieve its full potential in improving the INS's foreign student program.

This concludes my statement, and I would be pleased to answer any questions.

Chairman Hoekstra. Thank you very much.

WRITTEN STATEMENT OF GLENN A. FINE, INSPECTOR GENERAL, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, D.C. – SEE APPENDIX D

Chairman Hoekstra. Mr. Edson.

STATEMENT OF STEPHEN A. EDSON, ACTING MANAGING DIRECTOR, DIRECTORATE OF VISA SERVICES, BUREAU OF CONSULAR AFFAIRS, U.S. DEPARTMENT OF STATE, WASHINGTON, D.C.

Mr. Edson. Mr. Chairman and members of the subcommittees, thank you for the opportunity to appear before you this afternoon to explain the department's role in the electronic verification of student and exchange visitor visas and to provide you with an update on our implementation efforts.

We in the State Department are actively participating with INS and the exchange community in the design and the development of the Student and Exchange Visitor Information System. I defer to my INS colleague to outline SEVIS in detail, but I believe it is a permanent system that will contribute to our national security as it adds integrity to the student and exchange visa issue process.

At the same time we are working on SEVIS implementation, in response to a separate legislative mandate the department has launched the Interim Student and Exchange Authentication System, ISEAS, which will provide for the electronic verification of student and exchange visas until SEVIS is fully implemented. ISEAS is a web-based system that allows consular officers to verify the acceptance of foreign students and exchange visitors who apply to enter the United States on student, whether F or M, and exchange visitor, J, nonimmigrant visa categories based on information the schools or exchange programs sponsors enter directly into the system.

That portion of the legislative mandate that requires the department to inform INS of the F, M and J visa issuance is being accomplished using existing data share link between INS and the Department of State.

As you know, section 501(c) of the Enhanced Border Security and Visa Entry Reform Act of 2002 mandated mandates that from September 11, 2002, which was 120 days from the act's passage, until SEVIS is fully implemented, a visa may not be issued to a student or exchange visitor unless the Department of State has received from an approved educational institution or exchange visitor program electronic evidence of the alien's acceptance in that institution and a consular officer has reviewed the applicants visa record. ISEAS is the means by which INS-approved educational institutions and department-designated exchange programs meet this legislative requirement.

Consistent with the legislation, ISEAS is being established as an interim system with the limited support and capacity implied in that term. ISEAS will stand alone for its entire lifetime and will not be able to share any data with SEVIS. This is significant because as mandatory SEVIS compliance grows nearer and more and more educational institutions and designated program sponsors become SEVIS compliant we will find ourselves in a situation where designated officials will have to electronically register visa applicants in two separate databases, ISEAS and SEVIS,

and consular offices in many cases will have to check two separate databases in order to confirm the providence of those documents until ISEAS sunsets with final SEVIS implementation on January 30, 2003.

ISEAS consists of two independent computer-based subsystems with data transferred between the two. The first subsystem contains an Internet website and a direct link for approved institutions and exchange program sponsors to enter data from the appropriate acceptance document for the students. To insure data integrity, the ISEAS Internet subsystem validates the identification data entered against approved lists of institutions or program sponsors.

Once ISEAS confirms that that institution or program sponsor is on one of the approved lists, the designated institution or program official enters the required data and the system returns a confirmation number.

Due to the very short development period mandated by the legislation, we were unable to deploy ISEAS before September 11. Consequently, participating academic institutions and exchange programs were unable to enter the required data into the ISEAS database prior to deployment. Therefore, to minimize the negative impact on visa processing, we devised back-up procedures to insure that consular officers receive timely status verification directly from the sponsoring institutions and programs during the first 30 days of ISEAS implementation until October 11.

Should the ISEAS option in any case proves unworkable, students have been asked to contact their schools or sponsors and the consular officers in the field will accept direct e-mail notification, confirmation from the institutions in the United States to the consular section.

In the days since ISEAS launched we have communicated with hundreds of academic institutions and exchange program sponsors, working through technical and notification issues and facilitating the electronic notification of students and exchange visitors both within the ISEAS system and through those back-up procedures mentioned a moment ago.

Mr. Chairman and members of the committees, as of this morning, and this is an update from the printed version of the testimony, over 2,393 institutions have entered over 40,000 records in ISEAS. Since September 11, 197 visa-issuing posts around the world have confirmed the records of 3,300, roughly, student and exchange visas.

Thank you, Mr. Chairman and members of the committees, for permitting me to share this information with you this afternoon. I would be pleased to answer any questions that you may have.

WRITTEN STATEMENT OF STEPHEN A. EDSON, ACTING MANAGING DIRECTOR, DIRECTORATE OF VISA SERVICES, BUREAU OF CONSULAR AFFAIRS, U.S. DEPARTMENT OF STATE, WASHINGTON, D.C. – SEE APPENDIX E

Chairman Hoekstra. Thank you. Ms. Sposato.

STATEMENT OF JANIS SPOSATO, ASSISTANT DEPUTY EXECUTIVE ASSOCIATE COMMISSIONER, IMMIGRATION SERVICES DIVISION, IMMIGRATION AND NATURALIZATION SERVICE, WASHINGTON, D.C.

Ms. Sposato. Thank you, Mr. Chairman and members of the subcommittees. I am happy to be here this afternoon to tell you about SEVIS, the Student and Exchange Visitor Information System.

As you have heard from the other witnesses, this is an exciting new program to track certain information about student and exchange visitors. It will enable the INS to monitor the compliance of foreign students and exchange visitors with the immigration laws with greater efficiency and with greater confidence that the information we have is accurate and up to date.

While I intend to use the largest part of my statement time to show you how the system actually works, I want to begin with a few remarks about readiness. Congress has mandated that the system be fully operational by January 1, 2003. INS will meet that statutory deadline. By this, I mean all of the software will be deployed and available to schools for use by that date. I also mean that INS will review the applications of schools and, as appropriate, give them passwords to use the system by January 30, so long as the school has applied timely.

The significance of January 30 is that INS intends to require all schools to use SEVIS for any new student documentation that they issue after that date. As of tomorrow, when the INS will publish its certification rule in the Federal Register, any school may apply to use SEVIS by following simple procedures outlined in the rule and on the INS website.

I can say that we will meet the January 1st deadline with confidence in part because the largest piece of the software is already deployed. That is the piece dealing with academic and technical schools. It has been available to selected schools since July 1st, and it will be available to all schools as of tomorrow.

My confidence about our ability to review the applications and enroll all schools that apply timely is based upon our strategy for enrolling schools in a phased approach using three contract investigation firms with over 1,500 employees to make the site visits. While it is our intention to make site visits to all schools, we intend to allow certain accredited schools with whom we have done business in the past to use SEVIS before their site visit is undertaken.

The Department of Justice Inspector General has said several times that he has doubts about whether we will be able to have SEVIS fully implemented by January first. If you listen carefully and read beyond the headlines, what the IG is staying is that we will have the system deployed and used by schools by January, but we won't have accomplished all of his recommended training of everyone involved with the system and our plans for compliance monitoring won't be fully

accomplished.

I agree with the Inspector General that compliance monitoring and training are ongoing needs. SEVIS is a program. It is not an event. It will grow and develop after January 1.

We have already conducted two training conferences with the INS officers who will be using SEVIS most directly. We have additional training and compliance programs planned for the spring of 2003, and there will be more after that. But make no mistake about it. The system will be fully functional by January 1st, and schools will be required to use it for all new students as of January 30th.

The schools have a different set of concerns about January deadlines. They are concerned about their own ability to comply with the deadlines as outlined in the proposed rule published by the INS last May. Like the Inspector General, they realize that INS will have made the system fully available before January.

We are working with the schools to help make their transition to SEVIS as easy as possible. Over the last year we have attended over a hundred meetings with school groups to acquaint them with their responsibilities under SEVIS, and we have many more scheduled over the next year. We have developed SEVIS training videos for distribution to the schools and published our proposed program rule in May of this year for comment. We have a robust help desk to answer questions and assist schools as they begin to use SEVIS.

Finally, we are developing a batch processing capability to allow schools to load data directly into SEVIS from their school computer systems, minimizing the necessity for manual data entry. This week, we made available a system to test on our website a school's ability to use the batch processing capability in SEVIS. All of this is well in advance of the January deadline.

Much has been accomplished, and much remains to be done. The system is simple, and the largest part is here today. I think the best way to show you is with a short demonstration. I will be assisted in this by Stella Jarina, our Director of Student Operations.

Before I actually show you the screens from the system, I would like to walk you through the process with a single student.

IMMIGRATION AND NATURALIZATION SERVICE'S STUDENT AND EXCHANGE VISITOR INFORMATION SYSTEM (SEVIS) DEMONSTRATION SCREENS – SEE APPENDIX F

SEVIS is the great big database in the middle of the screen. It receives and transmits data to and from various sources. At number one the student begins by applying to a school or multiple schools. If accepted, the school will enter certain data about the student into SEVIS via Internet. That is number one you can see.

The system will print a form I-20, which the school will send to the student with his or her acceptance packet, and that is shown with number two.

Next, the student takes the I-20 or I-20s if they have been accepted in multiple schools and applies at a consulate for a visa. That is shown in number three.

At the consulate, the Department of State will be able to access the data from SEVIS about this prospective student and determine whether to issue a visa. If a visa is issued, the data is recorded and transmitted to SEVIS, and the system will invalidate any other outstanding I-20s for that student. So that is shown at number four.

At a port of entry, the entry of the student is recorded and transmitted to SEVIS. That is number five.

SEVIS then notifies the school that the student has arrived. That is number seven.

Within 30 days of the close of the school's registration period, the school must record the registration of the student shown as number six and seven.

If this doesn't happen, the system will notify the school and the INS district office of the discrepancy. If it is a school error, it can be corrected at that time. If it is not an error, the INS district office will refer the matter to INS enforcement for further handling; and that is number eight on the screen.

Over a student's career at the school certain other events must be recorded by the school such as change of address, early completion, or any known failure to maintain student status. Eventually, the student's record in SEVIS is closed when the course of studies is completed, and that is number seven.

Now I would like to show you the I-20 form that a school fills out with a new student. I am going to go through it very quickly because you don't really need to learn the details. All you really need to see is that it is here, and it is simple for the school to complete. It contains very little information that is different from the paper I-20 that the schools type today.

Okay, what you have here is an I-20 that is filled out for me, Janis Sposato; and it has my country of birth, information about my residence in Italy, my country of origin.

When you go to the second page of the I-20, and there are a lot of blanks on this I-20 because they are not all required fields for the school to fill out when a student first arrives. For example, the address, the foreign address on Page 2 is filled in, but the U.S. address would not be filled in at that time because the student wouldn't have one. At the later point in time when the student registers, the U.S. address becomes a mandatory field. So at the time of application you are filling out the preliminary information, the foreign address and a little bit of information about the course of studies that the student is going to take, and that is the second page.

The third page of the form includes information about the students' ability to pay the tuition. The light blue part of the form is information about what it costs to go to that particular institution and the dark blue part of the form is information submitted by the student about their sources of funding. When this last screen is filled out, if there are no dependents, and if the student will have dependents that are traveling with the student to the United States, there will be another screen for dependents. If there are no dependents, the form is transmitted and it moves into SEVIS. An I-20 form is produced by the system with a bar code, and that I-20 form is what is taken to the embassy.

We are not getting the I-20 form. It is coming. There it is.

And that is the system in a nutshell. It is here, it is available, and about a thousand schools right now and many more to come are using it.

Thank you, and I look forward to your questions.

WRITTEN STATEMENT OF JANIS SPOSATO, ASSISTANT DEPUTY EXECUTIVE ASSOCIATE COMMISSIONER, IMMIGRATION SERVICES DIVISION, IMMIGRATION AND NATURALIZATION SERVICE, WASHINGTON, D.C. – SEE APPENDIX G

Chairman Hoekstra. Thank you. Dr. Ward.

STATEMENT OF DR. DAVID WARD, PRESIDENT, AMERICAN COUNCIL ON EDUCATION, WASHINGTON, D.C.

Mr. Ward. Thank you, Mr. Chairman and members of the subcommittee.

Chairman Hoekstra. Could you, yes, pull the mike up, please? Thanks.

Mr. Ward. Thank you, Mr. Chairman and members of the subcommittee. I am glad to be here representing ACE, a membership organization of college presidents of 1,800 institutions and 76 other educational and exchange visitor organizations.

Much has changed in the months since this committee last met to consider issues related to international education and student visas, but one thing that has not changed is the importance of the Student and Exchange Visitor Information System, SEVIS. This electronic tracking system will link U.S. Embassies and consulates overseas, every INS port of entry and every institution of higher education and exchange visitor program. It remains the single most important step that the federal government can take to improve the ability to monitor international students. We continue to strongly support SEVIS, and we would like to see it implemented as soon as possible.

We think that INS has done a good job of implementing SEVIS. They have made progress more rapidly than we ever thought possible a year ago. They have consulted us. They have attended professional meetings to talk to our constituencies that will have to perform the operations

on campus.

All colleges and exchange visitor programs know that SEVIS is coming and understand the seriousness of implementing it promptly and properly. We have communicated developments to them. Colleges and exchange programs know as the ultimate users of this system that they have a central role to play in making SEVIS work. Many schools are now hiring staff working overtime and upgrading their IT systems so that they will be ready on January the 31st. They are, of course, expensive changes, but all colleges are spending money without hesitation.

But while the INS has done a good job and we are ready and willing, indeed anxious to do our part, we are somewhat concerned about how much remains to be done in a rapidly shrinking period of time before our members must be fully compliant. Unfortunately, we do not know all that we need to know if we are likely to be able to make this work smoothly when the compliance date arrives.

Let me be specific. The regulations governing SEVIS and international visas, that is F and M, have not been published in final form. They must still be reviewed and cleared by both the Justice Department and the Office of Management and Budget. We do not expect them before Thanksgiving. The regulations governing SEVIS and exchange visitor visas J that must be issued by the State Department, not INS, have not been published in draft form. The draft regulations have been under review at the Office of Management and Budget for more than a hundred days. Given this delay, we are unlikely to have the J regulations until after we are expected to be in full compliance.

INS has not yet determined how many campus officials, called designated school officials, or DSOs, will be permitted to process or enter data into SEVIS. Because of the added workload created by SEVIS, campuses, especially those with large numbers of international students, will need more DSOs. Batch processing, a key element of SEVIS for schools or exchange programs with more than 200 students or visitors, may not be ready for full operational testing until mid-October. The batch processing test announced by INS last week will allow schools and exchange programs to test the system but only in a very preliminary manner.

Schools have hundreds of technical operational questions and have had very uneven success in getting answers from the INS help desk. According to the Department of Justice Inspector General, INS has not provided adequate training to its own regional office staff that will advise campuses about SEVIS implementation.

The amount of the fee that students must pay to register in the system and the procedure for collecting the fee remain unsettled. INS as of yet has no plans, although it probably will, to train campus officials.

Adding to the complexity, the State Department, as required by the enhanced border security and visa entry format, put a temporary system in place two weeks ago to electronically monitor international students and exchange visitors on a preliminary basis known as ISEAS. This is, in essence, a pre-SEVIS electronic tracking system with different requirements than what we

will face under SEVIS. There is absolutely no linkage between ISEAS and SEVIS.

I do, however, want to reiterate that colleges and universities and exchange visitor programs have a strong commitment to implementing SEVIS as soon as possible and to meeting the deadline at the end of January. But, to do this, we ask that we have all the tools and the regulatory guidance we need to do this in a timely and effective manner.

We right now find ourselves in the position of a homeowner who wants to install a new furnace but lacks an instructional manual, needs tools that are not yet available and doesn't have some of the parts that the manufacturer promised to provide. This is a challenge for us, and we respect the challenge of INS in trying to implement SEVIS by the end of January.

Mr. Chairman, I wish to assure you and the members of this committee, or your subcommittees, that we wish that SEVIS would be implemented by the end of January, and we will commit ourselves to make Herculean efforts to accomplish this task. Right now, we just simply have some worries about what will happen when the compliance day arrives and some of the problems that I have indicated will still be present.

Thank you very much.

WRITTEN STATEMENT OF DR. DAVID WARD, PRESIDENT, AMERICAN COUNCIL ON EDUCATION, WASHINGTON, D.C. – SEE APPENDIX H

Chairman Hoekstra. Thank you very much to the panel.

We will now go to a process of five minutes of questioning for the members.

Is it an accurate description to say that on January 30th we will be compliant with the mandates of Congress, but it may not quite work the way that we want it to? I mean, technically we will have met the target, but it may not be working quite the way that we would have wanted it to be.

Ms. Sposato. Well, the congressional date is January 1st.

Chairman Hoekstra. Okay.

Ms. Sposato. The system will be up and running and schools will be enrolled and able to use it. On January 1st_and I can never say a system won't have glitches, but the system's been up now since July so we are pretty confident about the way the system will work.

The full amount of training and we have trained the INS officers. We have brought them in twice already. The training may not be as full and complete as we would like it to be and our compliance efforts won't have really been put into place, so that is why I say it is not an event that occurs on January 1st. But the system will be there, and it will be working and we think working well. But there is always more to do.

Chairman Hoekstra. Yeah. I mean, if Dr. Ward is accurate that the rulemaking is not done, you know, how does that impact Dr. Ward and the schools that he represents if there is not any rulemaking?

Ms. Sposato. Well, there is rulemaking. INS put in its regulations involving the F and M programs, which are the academic and technical schools and we published our regulations for comments by the school and other communities in May. That proposed rule is the road map for what the schools have to do, and to the extent that there are schools concerned about the number of DSOs, et cetera, it is because they have commented and seen that rule. INS will have its final rule published before the January date.

You know, the review and comment process for federal rules is not something I can control or want to make predictions about, but it will be out. Our rule will be out this fall. The State Department is working very hard to get their J rule promulgated. Whether it is promulgated as an interim final rule or as a proposed rule, I don't know. But we are going to do everything we can to have the rules out as soon as possible.

But the schools do know the basic content of those rules, because our rule has been out since May.

Chairman Hoekstra. Now, why are part-time students not included? Can a foreign student come here as a part-time student?

Ms. Sposato. Is that a question for me?

Chairman Hoekstra. Whoever can answer the question, I am open.

Ms. Sposato. When people come to the United States, they come with some kind of status. You can come because you are going to be a full-time student, in which case you can get an F visa or an M visa. You can come to be a visitor in which case you get a B visa. So you can come, based upon different theories, and that is the basis upon which the State Department gives you a visa. Right now you cannot obtain a visa to be a student if you are not going to be a full-time student.

Chairman Hoekstra. Who brought that issue up?

Mr. Fine. I did, Mr. Chairman. The concern that we have is yes, you can come to the United States on a B visa for pleasure, or for business, and if you take part-time studies under a certain amount of hours per week, you are not required to get a student visa, and you are not required to change your status in any way. That is what happened, for example, and that is what happened for people attending flight schools or other trucking schools. Students that would be of concern but who come here with a B visa and take those courses and are not monitored or tracked in any way by the system.

Chairman Hoekstra. So the concern there is that they could come to school here and get training, which we might not want them to have, is that the concern? Because I am assuming under these other systems, we will also have a tracking mechanism, but the loophole there is say we do not

want to train any more pilots.

Mr. Fine. We have no indication or tracking of what has been trained or what has been attending those schools or not.

Ms. Sposato. If I may?

Chairman Hoekstra. Yes.

Ms. Sposato. The INS has put in place a very aggressive, actually it was the Department of Justice tracking system for people who might attend flight schools, which is separate and apart from full-time students in flight schools who would also be tracked in SEVIS. To get at the chair's concept that there are certain kind of training that you might not get on a full-time basis, you might get when you are here on some other kind of visa that we might want to keep control of.

On the other hand if you are here with your spouse, who is an H1B worker, and you want to take courses in gardening or something like that, INS has no particular interest. I do not think the U.S. Government has any particular interest in tracking that kind of part-time student. So we do have a pretty aggressive program in place for tracking flight students separate and apart from SEVIS.

Chairman Hoekstra. Is that the kind of stuff that is spelled out in rule making?

Ms. Sposato. Yes, there is a rule about that. I am not overly familiar with the program, but it involves anybody who wants to study on any kind of basis for any amount of time to fly aircraft over a certain weight limitation.

Mr. Fine. I think that is contradicted. You have to fly an aircraft, I think it is over 12,000 lbs., I forget the exact number, but it is a larger aircraft, it is not a smaller aircraft, and that is obviously a concern for smaller aircraft as well as some other schools, which are not types of schools covered by that program.

Chairman Hoekstra. Does the rule making take into account and lay out the dynamics of system in terms of spelling out if a student falls out of status, what determines out of status and how quickly the school has to respond into SEVIS?

Ms. Sposato. Yes, the rule making I believe is fairly specific about requirements for the school to report certain events, for example, a failure to show or a dropping of credits so they fall into a part-time status, and in most cases it is within 30 days the school has to make that entry.

Chairman Hoekstra. A penalty is attached to the schools not providing the information?

Ms. Sposato. I do not believe there are penalties assessed on the schools, but if a school does not meet its obligation under SEVIS, one, we will know it; two, we have a biannual certification process that is required by the statute and the school can be denied access to SEVIS, which would

be a penalty of sorts.

Chairman Hoekstra. How would you know if somebody fell out of status if the school did not tell you?

Ms. Sposato. That particular thing we might not know immediately, but when we do our biannual certifications, it is the kind of thing we will be looking at school record to make sure that they comport with what has been reported in SEVIS.

Chairman Hoekstra. Will you have the resources to do this? How many schools do you have to check?

Ms. Sposato. I do not know the number of schools.

Chairman Hoekstra. What do you mean, you do not know the number of schools?

Ms. Sposato. We do not know the number of schools who will apply to be in SEVIS. We know the number of schools who are active in our testimony today, and that is under 10,000. So we have some sense of who will apply and who will use SEVIS. We do, and as of tomorrow, we will have in place our regulation that many explain our plans for certifying schools, and they include charging the school a fee which will be used to pay for the certification process, and it would be our anticipation that the two-year process would work somewhat like the initial process, although we may modify it somewhat to reflect the different situation.

Chairman Hoekstra. Is that a fee per student?

Ms. Sposato. This is a fee per application for school. The school would pay the fee for each campus that is applying to be in the system.

Chairman Hoekstra. It is not per student. The University of Wisconsin with a thousand applicants will pay the same; will pay more or less than the technical school that has ten students.

Ms. Sposato. Assuming it has one campus that is admitting the foreign students, they will pay the same fee as a smaller school. The concept behind the fee is that we are going to send a contractor to make a site visit to the school to work with the school official to make sure that they are adequately aware of their responsibilities under SEVIS to make sure they have the record keeping ability that they need and that they have actually met their requirements under the old system. And that will cost us the same to do that with a contractor whether it is a school with a lot of students or a school with just a few.

Chairman Hoekstra. How big is the fee?

Ms. Sposato. The fee is $580 per campus.

Chairman Hoekstra. That's $580 per campus, every two years?

Ms. Sposato. No, that is the initial fee. We have not yet done a fee study and really worked out the details of what we will do at the two-year mark. So the two-year fee could be less if we determine that fewer site visits are necessary, or a different kind of monitoring is visible. So it will be a $580 fee for a single campus first time in.

Chairman Hoekstra. I would guess with travel, lodging, you might get about two or three hours of contractor work per location to certify.

Ms. Sposato. No, we are expecting agents, more than that; we have hired contractors who have nationwide networks of investigators.

Chairman Hoekstra. So okay, you will get six hours of campus. You will get the benefit of the doubt for 80 bucks an hour, they will not charge you for mileage or lunch or a report so you may get somebody six or seven hours on campus?

Ms. Sposato. We are expecting a one-day visit, that's correct.

Chairman Hoekstra. Okay.

Ms. Sposato. Part of that fee, not all of that fee, goes to the contractor; the INS uses part of that fee.

Chairman Hoekstra. That makes me even more nervous. I cannot believe that you can certify those folks in less than a day.

Ms. Sposato. It is a very aggressive program. We are doing what we can in the time we have.

Chairman Hoekstra. SEVIS is only as good as the information going in, and if these screening these schools for less than one day in their track record per campus, that is going to be tough. I have to believe that Coach Osborne took more time than that screening one football player at the University of Nebraska. And you can see what's happened to the University of Nebraska now when they have cut down their screening time.

Ms. Sposato. If I could reply, I would like nothing better than to spend a week with each school. We do not have that luxury before January. But the initial site visit and review of the school's application is not the only compliance measure that is built into this program. We will have an analytic group once the school begins entering data into SEVIS. We will have an analytic group that watches that information, and will be able to see things like, for example, a school does not enter the registration of students on a timely basis, and the system therefore kicks out alerts, but when we go find those alerts, the school says oh, actually they did attend, they are right here.

So when we find those kind, we will be monitoring those kinds of things as the system develops. That is why I agree with the Inspector General that there is a lot more to running the program than simply delivering the system on the first day.

Chairman Hoekstra. That is exactly I think the point. There is a lot more to running the system. We knew what the flaws in the notice system were out of the sample of 200 schools. What were the numbers you used?

Mr. Fine. Eighty-six were no longer in existence, were defunct. Of the 114 that were still operational, 40 of them had incorrect information in the system. So 43 percent of the schools on the list that the INS had were no longer operational.

Chairman Hoekstra. Ms. McCollum.

Ms. McCollum. Thank you, Mr. Chairman. When was the first SEVIS I implemented? When was that?

Ms. Sposato. If you mean the Cypress system, 1997.

Ms. McCollum. Since 1997, where we had a system in place, and it is now today and we are still finding we have wrong addresses and a system that does not work, Mr. Chairman.

Mr. Chair, I am glad you are having this hearing. I had a bill and I wanted to look at changing the system radically and putting it in the INS, because we had a system that did not work at our colleges and universities. And the system that I hear about today gives me great concern when you and I will have confidence that we have a system that is even working today, Mr. Chairman.

After the events of September 11th, it became clear that student visas might have been involved in the state university systems, it was incumbent upon them to collect fees to pay for this program, and we are seeing what you get for the dollar. I introduced a bill on October 4th to look at having us take care of the fee, so at least we had a steady stream of income to get some of these operations going. In my district in St. Paul, we have ten universities, community colleges and private colleges. It is the home to MacAllister College, where the person who presides over the U.N., Mr. Kofi Annan, received his education.

We take great pride in the fact that we have many students, and I am very proud also of our flight school in Minnesota, which reported their suspicions on one of their students that was attending. However, I do have some questions. How much is it actually going to cost, once you work out some of these problems, to administer this program annually? How much is it going to cost the INS, how much is it going to cost the State Department and what fee is going to be passed on to foreign students, or what fees are going to be absorbed by the university system?

Ms. Sposato. Congress appropriated $37 million for the development and deployment and initial operation of SEVIS. And we are using that money today. Once the 37 million is exhausted or somewhat before that, a student fee will need to be assessed to continue the operation of the system and the program. A fee study has recently been conducted to look at the fee Congress has mandated, which says that INS collect such a fee and that it not exceed $100.

Ms. McCollum. Madam, I asked you how much it was going to cost, not your time frame.

Ms. Sposato. And I am not prepared to tell you the data, but I would be happy to get back to you with estimated numbers.

Ms. McCollum. I would appreciate you giving that to the chairman. Mr. Chairman, for us to do our job, we need the information, we need to know what we need to appropriate in order to make our homeland secure.

Another question that I have is when the discussion about part-time training, I am drawing from inference that as you have low risk and high risk schools, as you have part-time students who will be looking at those who are attending a high risk and low risk school, for example, if I am a part-time student due to my health, or I am a spouse or a dependent or someone who came in on an H-1 visa and want to take Minnesota history or the history of the United States or something like that, and I am at St. Thomas College, for example, I am in a low risk institution part-time, but if, all the sudden, I want to learn how to fly a heavy aircraft that puts me at a high risk institution. Because, Mr. Chair, I am very concerned with the amount of resources and the number of students and the amount of misinformation that is still out there in the system that they are collecting, that we are not only going not meet this deadline, and I do not have confidence in any deadline shortly.

In closing, Mr. Chairman, I would like to point out for the record also, in the information I have in front of me, there are over 500,00 foreign students, 500,000 foreign students enrolled in colleges and universities in the United States. My son has been a foreign exchange student. I have great affection for foreign exchange systems. I think it helps nations build. I think it helps democracies. But with those numbers in mind, Mr. Chair, we had 232 million visas issued in the United States, so this is like searching for a needle in a haystack if someone wants to come in. Thank you, Mr. Chairman.

IMMIGRATION AND NATURALIZATION SERVICE'S RESPONSES TO REPRESENTATIVE BETTY MCCOLLUM'S QUESTIONS – SEE APPENDIX I

Chairman Hoekstra. Thank you. I am assuming, based on the answer to the question for Ms. McCollum, you have an idea based on the study that is done, whether $100 is a sufficient number fee or not, but you are just not prepared to tell us at this point; is that correct?

Ms. Sposato. I can say the study came in under $100, significantly. I just do not have the total budget, which is what I understood the question could be.

Chairman Hoekstra. All right, thank you. Mr. McKeon.

Chairman McKeon. Thank you, Mr. Chairman. I have some of the same concerns that Ms. McCollum ended her statement on. We have, the record I have shows that we have 300 million entries and exits to the United States annually, and we are focusing on the 500,000 students. It seems like we have lots of questions with the system to monitor those students. I am also concerned about the other 299-1/2 million that we are not even talking about right here today. How

many high-risk schools are there?

Ms. Sposato. The INS has not named categories of high medium and low risk schools.

Chairman McKeon. What would be the definition?

Ms. Sposato. I am not sure.

Chairman McKeon. Who will determine that?

Ms. Sposato. The regulation required that would be published tomorrow will allow the INS to prioritize the visit, the site visit to schools based on a risk analysis, which we will have to conduct.

Chairman McKeon. Will we be given a copy of that?

Ms. Sposato. I would be glad to share it when it is done.

Chairman McKeon. I have a question for both the INS and the State Department. It has been widely reported that federal investigators have charged a professor of Morris Brown College in Atlanta with helping 17 foreign students fraudulently obtain visas to enter the United States. Specifically, from 1997 to 2001, according to news reports, at least 17 foreign nationals paid between 2- and $5,000 each for documents that helped them to be accepted at Morris Brown. They used the documents to get students visas, though they did not plan to attend the school. How will SEVIS perform in terms of stopping such a problem?

Mr. Edson. From my understanding of the case that you have described the documents were_.

Chairman McKeon. _fraudulently obtained?

Mr. Edson. Fraudulently obtained, but legitimate documents. And if students over the course of visa interviews overseas carried off this misrepresentation, they would likely obtain visas on the assumption that the documents were rarified in SEVIS. So there is not anything other than our instincts in interviewing them that would catch them overseas in these circumstances. Where they had complicity from inside the university, I think it would be the tale end, when they did not show up in school in the United States that is when we would catch them.

Ms. Sposato. The system would help, in one way for the State Department, if you remember, we showed you an I 20 form with a bar code on it, if it were a false I 20 form, if it were a falsified document, when the State Department went into the system to see about that particular student, they would not find that particular student in the system. So it is more secure than a system that is based on carrying pieces of paper because pieces of paper can be fraudulently obtain. But no system is completely fraud proof. If the perpetrator of the fraud is the designated school official, it will be very difficult to defect that fraud unless we have some reason to suspect from our analytic work, or until we get to our two-year review of that school. If those two-year reviews are thorough enough, we should be able to verify from school records that the person has not actually attended.

Chairman McKeon. But as my understanding is, if they if they come into the country then do not come to the school, would SEVIS pick that up then?

Ms. Sposato. If the school did not enter the registration of the student, then SEVIS would pick it up and we could take it from there. But if the school official is the perpetrator of the fraud, they have might well enter into the system that the person arrived.

Chairman McKeon. So the contractors that go out and visit the schools, is there any way when they do that, or is there any way in the system that there could be a double-check that one person could not have the school of both filling out the I 20, and then indicating that the student had actually enrolled?

Ms. Sposato. Requiring two different entry people. It is not required by the current rule, it is certainly something we can look at.

Chairman McKeon. It seems to me that you testified that January 1st you will be up and running; you will have a system. I would hope, that somebody would really look at things like this that could be done. One person out of all of the schools that has been identified doing this, that is very minor, but that could be the exact person that we do not want in the country. So it seems like we have, I guess I do not want to use the words accounting for finding problems, but there should be systems set up that would take care of that kind of a situation.

Ms. Sposato. I can tell you that we will definitely look at that. You are looking at a burden on the school; you are requiring two people where one would have done. But there is definitely some merit to it.

Chairman McKeon. I do not want to put burden on the school, but why spend $37 million and all this effort to set up something that one person could bypass and make it of no avail. Once you get the system up and running, and you said you start in July, how many schools do you currently have using the system?

Ms. Sposato. One thousand have been approved to use the system.

Chairman McKeon. One thousand have paid the $580?

Ms. Sposato. No, actually, because the rule was not published, we entered, what I mentioned in my testimony, a phased approach of school entry, and basically, we allowed accredited scheduled schools, who we have a track record with to apply based on paper, not a site visit to apply, and we admit to use SEVIS prior to having a site visit, and that is what these 1,000 or so schools are who are using the system today.

As of tomorrow, all other schools will be able to apply, will pay their money, have their site visits presumably before January and be admitted to use the system, and then immediately after that, we will follow and get those 1,000 to pay their money and have their site visits.

Chairman McKeon. Site visit before January first, we are talking October, November, December, three months to visit 1,000 schools.

Ms. Sposato. No, many more than that, but we have three contractors and 1,500 people waiting to do it.

Chairman McKeon. 1,500 people?

Ms. Sposato. That's right, working for the contractors, a nationwide network.

Chairman McKeon. So we have over 9,500 schools that will not all be using the system because only the ones that would be, others using the system would be bringing in international students.

Ms. Sposato. I am not sure I understand the question.

Chairman McKeon. All the schools we have, all of our community colleges, universities, proprietary schools across the country do not have to sign up for SEVIS, only the ones that will be bringing in international students.

Ms. Sposato. That is correct.

Chairman McKeon. So it will be some less than 9,500.

Ms. Sposato. We are expecting something in that range to apply.

Chairman McKeon. My records show that that is how many schools we have, 9,576.

Ms. Sposato. Our information is that there are 7,500 schools actively using our current system, our pre-SEVIS.

Chairman McKeon. That would up the number then, probably.

Ms. Sposato. Probably, something like that.

Chairman McKeon. I could probably go on for another day, Mr. Chairman, but I see my time is up and I yield back my time.

IMMIGRATION AND NATURALIZATION SERVICE'S RESPONSES TO CHAIRMAN HOWARD P. '"BUCK" MCKEON'S QUESTIONS – SEE APPENDIX I

Chairman Hoekstra. I think I see where the gentleman is going. If you have 1,000 that are up now, that means that you will have to do somewhere between 5,000 and 6,500 between now and January 1.

Ms. Sposato. The thousand that are up now are up on the basis of a small group of headquarters personnel reviewing their documents. The next 7,000, let us say, are going to be very good by

these three contractors with the nationwide network, and we have over 80 school officers around the country who have been trained twice on how to do this. And then we are ready, willing and able to support those school officers in this effort between now and January.

If we find that more people are applying in Chicago than we expected, we will deploy resources to Chicago to deal with the surge. And that is the basic plan for the schools. And if we are not able to make a site visit to each and every school prior to the January date, we have left room for ourselves in this regulation to make the site visit to the higher risk schools once we develop some criteria for that and postpone the site visit for the others until after January. So we feel pretty confident. It is a big job and it is an aggressive schedule, but we feel pretty confident that we can do this by January and continue it after January.

Chairman Hoekstra. Well, I am excited about your optimism in getting this right. It looks like a big job to me in too long that many schools, and of course the questions in January and February will be whether all the schools had their site visit, and then it will be the issue of quality, the qualities of site visit and the accuracy of the information and the process by which the schools are going through the approval process of the students and those types of things.

Mr. Tierney.

Mr. Tierney. Thank you, Mr. Chairman. I think that goes a little bit to what my question was going to be, what is your contingency plan is if your optimism does not bear out? I think it is to prioritize and move on.

Ms. Sposato. That's correct.

Mr. Tierney. Last October the deputy INS commissioner told me that they were not sure how many INS students remain in the country illegally after they complete their education. Is that still the case?

Ms. Sposato. Yes, I believe that is still the case.

Mr. Tierney. Do we have a plan to identify and take action with respect to that significant number of people?

Ms. Sposato. Into the future, Congress has mandated that INS develop an entry/exit system that tracks all entries and all exits. And when that system is fully deployed and in place, it should be a relatively easy process to do that. Until that happens, we do have some enforcement plans, we do have some exit data about people who leave in some contexts, and one of our analytic plans is to take the exit data we have and run it against our SEVIS at that time of students who have completed their program and watched the trends and what we see there, but because we do not have complete exit data, it is not going to be a perfect situation.

Mr. Tierney. A House resolution that I mentioned in my opening remarks, one of the provisions we put in 3515 is that if a student finished or completed the studies, that they would not get their transcript until either they had left the country and gone back home or had arranged to finance on

through legal means. Would that be helpful tool to you?

Ms. Sposato. It might help quite a bit. We could certainly look at that.

Mr. Tierney. It seems to me that it may at least have some impact on a fairly good number of folks. Dr. Ward, there has been a lot of people, The Washington Post, I think, mentioned it in one of their recent articles about men from high risk countries having trouble getting students visas. You are aware of that issue and can you tell us what are the schools doing in that delay in the student's applications and visa processing?

Mr. Ward. I do not think there is anything they can do. I think we recognize there is a security challenge, since the 11th. I think everybody has to have a lot of patience, and I think because our intelligence resources cannot pinpoint who our problems are, there is a certain necessity, I think, that people who are perfectly innocent get caught in a log jam because of the greater care and prudence in issuing visas.

They are, of course, specific to certain groups, and I think it is tragic that somebody who is about to complete a degree and went home for a vacation cannot now get back in. There are individual hardships. I think all of us are trying to weigh the individual difficulty against the fact that there is a security challenge. And the State Department is in a position of having to vouch for the security of people entering this country. I do not think that they are being prohibited from entry. It is just a long delay in getting back in. This is one of those very difficult trade-offs between security and fairness.

Mr. Edson. If I could just add to those comments, we, in the State Department and in the intelligence and law enforcement community, we have been working very hard, both to identify the criteria used for special scrutiny of particular types of cases and to develop the process that will ensure that the cost in terms of time of those that examination is appropriate. Any time we add extra time to the process, it will take more time than it used to take, obviously.

Mr. Tierney. That is why you get the big job.

Mr. Edson. Sorry about that. But what we are trying to do is to make sure we have processes that are changing with time changing as we get experience with this new environment, becoming more focused. This, the biggest surge in the special clearance requirement was a requirements against a target demographic that was put in place of January 2002. This is the first student season the students return, if you will, that we will have to face with that requirement, and I think the incredible volume, the additional volume of cases since 9-11, and that caseload in particular, which did not target students. It had nothing to do with students, but it swept up a lot of students. That strained the resources and the processes in place at the FBI the CIA and the department of State in particular. I think we have come a long way toward ensuring that that does not happen in December and hopefully it will not happen at all when we hit the next emissions periods for schools.

Mr. Tierney. Can you tell me the noncompliance in terms of student visas, does that focus or impact on any one particular country or countries where you see more of it happening or is it

spread pretty well across?

Mr. Edson. From the State Department's point of view we are picking it anecdotally as we process cases overseas so we do not have a statistical basis for identifying that.

Mr. Ward. I think the magnitude may be fairly low because it is not in the self-interest of a person on a student degree who makes an advanced degree and may want to be a professional in the U.S. will want eventually to be an immigrant visa, and any irregularity in the student visa is going to make it difficult to get an immigrant visa. So the incentive of somebody who wants to stay legally as distinct from somebody who wants to be an immigrant with presumably an advanced degree, I do not think the incentives are there to do that.

I am sure it happens, but I do not think the magnitude is that great. Of course, the SEVIS system, by having the schools report the completion of the program, will allow the schools and the INS to work together to make sure that person leaves, which, by the, way I did when I completed my degree. I received a letter saying within one month you should leave the United States, and of course I did. I later came back thankfully, but in those days, it was actually a similar system in place in the 1960's. Where your arrival in the school and registration was noted and sent to INS, and the completion and you actually received notification of that. So we are really actually going back to a computerized version of a system we had when we had far fewer students coming here.

Mr. Tierney. Thank you.

Chairman Hoekstra. Thank you. Mr. Osborne.

Mr. Osborne. Thank you, Mr. Chairman. I just have a couple quick questions. Mr. Fine, this is sort of a general question, but if you could identify one thing in the short term that you think would enhance our security in regard to student visas, what would you recommend?

Mr. Fine. I believe that the INS is going down the right route. They need to ensure that the high-risk schools receive site visits. They also need to ensure that the school's representatives and the INS officers who are overseeing that program are properly trained and know what to put in the system. If there is not good information in the system, it can't be used and it can't be helpful. And the information that comes out needs to be followed up on. So the SEVIS will help, but it is only as good as it is used.

Mr. Osborne. From what you have seen of the proposal, the SEVIS proposal that we have before us, do you feel that there are any obvious loopholes in there from the viewpoint of the Department of Justice?

Mr. Fine. No, I don't believe there are any obvious loopholes. I think they are proceeding down the appropriate track. I do have concerns, as I stated, whether they can do all that needs to be done to have it fully implemented by January. I do have a concern about part-time students and whether part-time students will be covered in the particular categories that we discussed. But by and large, I think the plan that they have is a good one. It is just a question of implementing it. Implementing

it in a timely fashion.

Mr. Osborne. I guess that relates to my next question. Dr. Ward, I believe that you have indicated that the January 30th deadline is going to be very difficult to meet, if not impossible, from the standpoint of schools. And at the same time, INS has asserted that everyone can be ready. And I just want to tell you how you justify or how you would rationalize that discrepancy, and obviously somebody is probably not correct here.

Mr. Ward. Well, we would be happy if everything that we have been assured about today by Ms. Sposato is the case. I mean, if I am just crying wolf, I would just say this would be wonderful, and January 1 everything is ready, the schools are entered and by the 31st of January everything is working. If that were the case, I would regret my testimony. You know, I would be happy about it. If there are any system problems in entering the data, if there are problems with the training, both of our people and her people, the batch processing, I just simply do not know. And certainly the schools that have large numbers of foreign students, like my own, 4,000 foreign students in Wisconsin, I have talked to those people. The magnitude of the challenge here is so great they are apprehensive it won't be ready. The law of the land, we don't have them right now. Admittedly, we have draft regulations. So that all our preparations in this window make me very apprehensive.

I would hate to be dishonest in saying that I am confident that everything will be right. I hope, and sincerely hope, everything will be right and my anxieties are unfounded. But I think my anxieties are well founded and it would be better that we face that reality and that contingency rather than just ignore them.

Mr. Osborne. So are you suggesting that the deadline be extended?

Mr. Ward. No. What I hope is that if on the deadline there are still some problems, we have a contingent deadline, which can then be realistically set for us to complete what cannot be completed at that time. I mean, if INS believes they can do this, the best thing is to let's work together to see if we can get there; and then if it doesn't work, rather than being a blame situation, so then maybe set another deadline that allows to us remove the wrinkles of this very massive enterprise.

Mr. Osborne. Of course, one of the problems of a contingent deadline is that often times can become the target very quickly. You look at a fallback and say, well, you know, we really don't have to have it done until that time. And that would certainly be a concern. But as I understand it, there are really two major problems. Number one, students, many times they would apply to multiple universities and colleges and no one for sure knows which one they went to, and when they went someplace, often times they wouldn't stay there. Have you addressed those two issues with this plan?

Mr. Ward. Yes. Remember, before, the student may have been issued with I-20s from several schools but the visa would be issued for one. Again I think in the old system there was potential for there to be a problem, but the system was not designed to create the problem. But I think SEVIS is a very effective system of solving almost all the problems that came up in terms of

knowing what students were doing once they were issued a visa.

But remember, again, in terms of the security issue, these are half a million people about whom we know a lot. They have made applications to schools, they have often had letters of recommendation, and we do know a lot about them and we are focused on them, rightly. But it is 1.5 percent of all visas issued.

So I do hope that Congress recognizes this that while we can help address the security issue by tightening up this tracking system, there is a huge issue in terms of visitors' visas about whom we know much less than we do about students. That is a different issue, I understand, but I do think that is another matter that we need on the record.

Mr. Osborne. Thank you, Mr. Chairman.

Chairman Hoekstra. Mr. Scott.

Mr. Scott. Thank you, Mr. Chairman. The numbers we have heard, about 7,500 to 10,000 schools, half a million students, give or take, 300 million other border crossings, are those numbers about right?

Ms. Sposato. Yes, I believe they are.

Mr. Scott. We have heard that analogy, looking for a needle in the haystack. I guess my question is whether we are even looking in the right haystack. If this thing gets up and running and is working, how many students do we expect at any time to be out of compliance?

Ms. Sposato. I honestly don't know.

Mr. Scott. Because of just not getting the paperwork in, right? Nobody knows? Okay. Well, after you find somebody out of compliance, what will happen?

Ms. Sposato. As I described in my testimony, the information will be referred to the enforcement part of INS. They have hired a contractor to help them analyze the data about people found to be in noncompliance. There will be some contact with the school to ensure that the data is not incorrect, that it, you know, wasn't just a failure by the school.

Mr. Scott. How long after you ascertain that the person is out of compliance, how long will it take to a get to that point? How many months?

Ms. Sposato. Oh, I don't think it should take months. You know, I think that it will be referred automatically by the INS district officer who will have the information almost immediately, and how long the follow-up takes is going to depend on the situation. The reason they are referring it first for an analytic review is to look at things like other databases to see if the person is wanted for anything, have they left the country and does our exit system show that.

Mr. Scott. Will this list of students that happen to be out of compliance, I suspect as much by trifling paperwork as any kind of indication of terrorism, how does all of this relate to protecting the country from terrorists? We heard about people getting in on fraudulent visas. What portion get fraudulent visas, what portion of those are terrorists and what portion of those are just cheating to get an education? Is there any reason why we ought to looking at this haystack at all, rather than the other 299-1/2 million border crossings? What makes this group so dangerous?

Ms. Sposato. It is not my position that this is a particularly dangerous group. I think the INS is working on a lot of different programs in a lot of different directions. The hearing today is about the student tracking system and the student-tracking program. There is an entry/exit program that is a very large endeavor for the INS that is looking at all visitors.

Mr. Scott. Well, you have high-risk schools and low-risk schools. I have several schools, and Dominion University has a lot of international students. If someone is out of compliance, is that any cause for alarm that there may be some terrorism going on, or you just have a trifling student that just flunked out?

Ms. Sposato. I don't believe that INS is going to jump to the conclusion that somebody is a terrorist because they are out of student status.

Mr. Scott. Are there any other indicators of danger other than just status? I mean, you have had high-risk schools, I mean, somebody taking a history course would be different from somebody taking flight training. Yes? No? I mean they are of equal danger? Are they of equal danger? I thought all of this was to try to protect us from terrorism. Is just the status of being out of compliance an indicator of danger without anything else? I mean, where is the analysis that we should even be looking at this haystack?

Mr. Fine. Mr. Scott, I believe it is not just being out of status is not necessarily an indicator of danger. But I do believe that this is one effort that needs to be taken to ensure that the INS knows where students are, knows if they are out of status, and can look at other measures to take with regard to prioritizing; whether there is other intelligence information regarding them or if they are looking for a student and want to find a particular student, where that student is. Is that student in status or not? I totally agree that that this is just one small measure in a larger picture.

Mr. Scott. If I can ask the INS where in this chart it will it make it more difficult, if you have a terrorist who will be careful with his paperwork, how will this operation protect us from terrorism?

Ms. Sposato. In and of itself, SEVIS is not a system that is intended to prevent terrorism. It is intended to track people and their immigration status as a student. So if a terrorist is scrupulous about attending class and maintaining his status, there is nothing in this system that will help us. However, the State Department and the INS have other processes in place in which they are doing their best to prohibit the admission of people who are suspected terrorists.

Mr. Scott. Can I ask one other question, Mr. Chairman, to Mr. Fine, the Inspector General of the U.S. Department of Justice? Of all the things we could spend money on, is this high priority?

Mr. Fine. I don't know if this is the highest priority. I do think this should be a priority along, with the entry/exit system, in order to determine the status of students and to prevent the complete dysfunctional program that exists right now. We have no idea whether students attended or not.

Mr. Scott. In terms of protecting us from terrorism should this be a high priority?

Mr. Fine. I think this should be a high priority, yes.

Mr. Scott. Thank you, Mr. Chairman.

Chairman Hoekstra. Thank you Mr. Scott. Mr. Johnson.

Mr. Johnson. Thank you, Mr. Chairman. I appreciate Mr. Scott's questions. I am disappointed that you wouldn't answer them. We are getting the same treatment from you that we get in other committees from the INS. Can you confirm for me or not that some colleges offer exchange or temporary students Social Security cards if they will come to their school, even though they don't work?

Ms. Sposato. I don't know that to be the case.

Mr. Johnson. I know it is the case in some instances. Maybe you shook your head. Are you aware?

Mr. Ward. No.

Mr. Johnson. If someone comes to a school and doesn't work but is given a work permit, do you in INS; are you the ones that give work permits?

Ms. Sposato. Well, we don't give Social Security cards.

Mr. Johnson. I understand. I didn't ask you that question. I asked you if you gave work permit to students.

Ms. Sposato. There are some situations in which a student is allowed to work on an F- and M-visa under this system. And those are largely situations where the work is related to the course of study, like nursing or something like that. But by and large when you come on a student visa, you are not here to work.

Mr. Johnson. But they do issue work permits, is that true or false?

Ms. Sposato. You don't get a separate work permit, so to speak. You can be authorized under your student visa to do a limited amount of work related to your course of studies. And that is recorded in the system and authorized.

Mr. Johnson. Okay. Do you track those students?

Ms. Sposato. Yes. That is tracked in the system. A school has to report that it is authorizing that kind of work related to study, and they have to put that into the system.

Mr. Johnson. And then they are authorized to get a Social Security card, is that not true?

Mr. Ward. Yeah, it is automatic.

Mr. Johnson. And your system doesn't talk to the Social Security system, I don't think.

Mr. Ward. I think what you are hearing is that under a student visa you can apply for permission to work on campus.

Mr. Johnson. Right. Is it part-time or full-time? I understand some of them are full-time.

Mr. Ward. They might be. But the majority is part-time. It would be would dependent on the academic rules that prevent full- and part time, too. That would be entered in as a characteristic of this student that there was a request obviously for some part-time work. I don't know about the full time, because I think there would be some academic problems with that. Then I believe it is automatic that you can, upon receiving permission to work receive a Social Security number.

Mr. Johnson. You can apply for one. And theoretically the Social Security Administration will give it to you. They will check with INS to see that they have, I think, legal right to work. Go ahead.

Ms. Sposato. That is correct. They do check with INS about the status of the individual who is applying for a Social Security card.

Mr. Johnson. When the student goes back home or leaves the country for any reason, what happens to the Social Security number?

Ms. Sposato. I believe the Social Security number is maintained.

Mr. Johnson. The Social Security Administration issues a Social Security number for life. If a person leaves the country and comes back in, he still has that Social Security number. Now, what is to prevent a terrorist from coming back in under a student visa, having already obtained a Social Security number, and using that as a method of identification in this country which it is being used day in and day out? Do you at INS check that stuff?

Ms. Sposato. Well, we are not checking people's Social Security numbers. I mean, in order to get the student visa, they would have to apply to a school and be accepted.

Mr. Johnson. Does the inspector know anything about that?

Mr. Fine. No, I don't know anything about the Social Security checking by the INS. I don't.

Mr. Johnson. Do the computers of all our agencies talk to one another? In other words, I am told that State and INS and Social Security, none of them talk to each other. Is that true or false, or are they trying to get there?

Mr. Fine. I wouldn't say that none of them talk to each other. They are trying to improve the communication, interagency, of information technology. I know there is significant interaction between the State Department and the INS.

Mr. Edson. Between the State Department and the INS, we have had data sharing arrangements for over a decade now. All of our non-visa, our immigrant visa records are available to the Immigration and Naturalization Service.

Mr. Johnson. I would appreciate it if you would check student work visas into your program so we know in the future if these people are coming over here under any pretense at all to get a work permit and a Social Security number and thereby circumvent the system.

Thank you, Mr. Chairman. I appreciate the time.

Chairman Hoekstra. Thank you. It is my understanding Mr. Tiberi, you have no questions. All right.

Ms. McCollum, I understand have you a few additional questions. Recognized for five minutes.

Ms. McCollum. Thank you, Mr. Chairman. You only have so many dollars to work with at the INS. I am just trying to figure out how much we should be asking for you. I am not criticizing you; working with you on the dollars that you have.

To the Department of Justice in your testimony on page four, and I quote, "We conclude that unless the INS devotes sufficient resources and effort to implementing and using SEVIS effectively, many of its current problems in tracking and monitoring foreign students who come to the United States to attend school will continue to exist."

And that is the spirit in which I ask the question. Where is the budget on this? What should I be working on to help appropriate? Are we going to make this a fee-driven system if we don't support it here, that all of a sudden students and our colleges and universities are paying for the federal government's responsibility in keeping the homeland safe?

Ms. Sposato. Congress has mandated that the SEVIS system be developed, that it be developed by a certain date, and that a student fee maintain it. So I think those are things that as a career employee, those are a given for me. I realize that the Congresswoman would like to have the budget, and that is material I will provide to you after the hearing.

Ms. McCollum. Thank you. Mr. Chairman, I would like to go back to when I asked about high-risk and low-risk schools. Maybe I misunderstood a statement that was made out there, because I

am hearing two conflicting things. And maybe you can clear this up for me, whomever at the table. I hear, and I see in documentation from the Justice Department, clearly talking about high-risk and low-risk schools. When I asked INS about high-risk and low-risk schools, I was given information that I heard you to say that really doesn't have an assessment as to which schools are high-risk and low-risk. So why do we have confusion right here at the table?

Ms. Sposato. As I explained, INS does intend to set its priorities for its site visits based upon some risk analysis of which schools are, and we have more information about, and therefore are less risk to us. We have yet to do that risk analysis, so we have not set any priorities for the site visits. We have plenty of contractors available to begin them, and that is something we plan to do over the course of the Fall. So we do not have schools in categories of high or low risk. And I think it is a complicated problem. You have to ask yourself what kind of risk is you talking about: a risk that the school won't comply with SEVIS, a risk that the school doesn't exist, or a risk that the school will admit terrorist applicants. So all of that are things we have to look at over the fall and make some determinations about. Maybe the Inspector General wants to address it.

Ms. McCollum. Mr. Chairman, if Mr. Fine could help me out with this.

Mr. Fine. Obviously schools that are accredited institutions, universities, colleges that have been accredited, have been complying with the SEVIS, with the foreign student program, would be less of a risk. And there is no question about the bona fides. That doesn't necessarily mean that down the road they shouldn't be visited or certified to see whether they are complying with the requirements of SEVIS.

But smaller vocational schools, flight schools, language schools, they seem to fit into the category of a higher risk for not complying with the foreign student program requirements.

Ms. McCollum. Well, Mr. Chairman, here is where some of my problem with the high risk/low risk comes in. Because we had a situation, a tragic situation on September 11th that dealt with individuals who attended flight schools, we have assumed that all terrorists who come in under student visas are going to go to either vocational school or training school.

To Mr. Scott's point, if I am savvy, I keep up on my paperwork, and if I am a terrorist I can go any place and maybe even not be out there where State, Justice, or INS are looking at me. I might already have taken my flight training back in country X.

So I would really like to understand, and we don't have to get into it today, Mr. Chairman, should we be determining the risk of the school or should we be working with the State Department to determine the risk of the person? Thank you, Mr. Chairman.

Chairman Hoekstra. Thank you. I think that hopefully the steps here that we are putting in place address all of those issues that the State Department, through the process, is going back and assessing the risk of individuals that are applying for student visas. That is what I am understanding part of the delay is out at the embassies around the world, is that there is now more work required of State Department folks to assess people coming in. Is that correct?

Mr. Edson. That is correct. Both State Department folks in the field are interviewing process and review process in the field, and then in addition, for people who cross certain thresholds established in cooperation with the intelligence and law enforcement folks, special clearance procedures requiring a review back here in Washington.

Chairman Hoekstra. And then I think what Mr. Scott and you were both talking about is the risk of the institutions and terrorists. I think what we asked the INS to do is we want them to put in better procedures to track the 300 million visitors that we get every year. And the small piece of responsibility that this subcommittee has is for those 500,000 students that come in on student visas. Just saying this nation wants a better system of tracking, number one, determining who we are going to permit in, and then tracking when they come in under a certain set of requirements, we hold those people to those requirements that we agree to when they decide to visit.

In student visas, they are going to come and go to school, and when that commitment is ended for whatever reason, we expect them to leave. And it is the same thing that you've have on visitor visas where people agree to come in for a certain period of time, and the responsibility for INS is going to be if they agree to come in for 90 days or they agree to come in for 180 or a year, when that visa expires the expectation that it will either be renewed or whatever or they will leave the country. And that is INS's responsibility to make sure that they monitor the folks that we let in.

INS probably can't necessarily determine the terrorist, and actually the risk may be the schools that are out there that in the past have not complied and have not, you now, gone through the process. Those may end up being a higher risk to us than perhaps what their curriculum is. But that is what we will wait for INS to determine exactly how they identify what schools are higher risk rather than lower risk. And if they come out with a ranking mechanism that we don't agree with, we may decide to give them a little bit more guidance and correction from Congress as to how they define high and low risk.

With that I will yield to my colleague Mr. McKeon.

Chairman McKeon. Thank you, Mr. Chairman. I have enjoyed this hearing today. I think it's been very enlightening. It has I think shown how large the problem is. When we live in a free society and have basically open borders, it is pretty easy to get into the country when we see 300 million entrances and exits a year. Five hundred thousand of them are students, and we focus just on students today. Even though 2 of the 18 terrorists came in on student visas, that is the jurisdiction of this committee is education, so that is our part of the responsibility.

But it looks to me like a huge problem, looks to me like we have a lot of people that are working very hard to do a better job of keeping track of people; that it seems to me, if a terrorist really wanted to, they could find a way to come in, whether it be a student visa or other kind of visiting visa. But as I said, our responsibility is the education part and the student visas. So I have two more specific questions and then a recommendation.

For the INS again, is INS fully prepared to certify or recertify schools through the SEVIS system by January 31, 2003? The inexperience of those schools seeking certification under the volunteer program reported delays of 30 days to be given password authority into SEVIS. Is this

system capable of handling this function in a timely manner?

Ms. Sposato. Well, I believe that we are. The 30-day delay, you know, you don't get your password to get into the system until we have looked at you and determined that you warrant entry into the system. The schools that have been given that authority already have been given it by a core group of a small group of headquarters employees. We have 80 employees-plus in the field, ready to receive these investigative reports. And we have a contingency plan where we will prioritize things if we are flooded with applications on the last day. I neglected to say that.

Chairman McKeon. I don't mean to be critical, but that reminds me of a problem we had with student loans a few years back. You get to a point where you are getting further and further behind. We have basically three months left, and my familiarity with the schools indicates that they take off a few weeks in December. There are not going to be people there to work. And I am really concerned. From July till now, we put in 1,000 schools and those were schools we already were working with, and some of those we found aren't even schools. And then in the next 30 days we are planning on putting in the other 55-, 65-, 7,500. I just think we are probably not being realistic, and as has been mentioned, we probably better have a fallback position and be realistic about that.

Next question. Will all F and J individuals, new or continuing arriving on or after February 1st, 2003, be required to have a SEVIS document, or will documents issued before January 31, 2003 be considered valid for entry? Or will F and J visas currently, I will give this to you and you can answer this in the record. In fact, I will just do that and not have to have you write that all out right now.

Chairman McKeon. But I would like to commend you for the work you are doing. I think this is very important work. And it is a huge job. And I guess it has been pointed out by others in their questioning, even if we tracked every single student, even if they all complied, I don't know if we have adequate information here in SEVIS indicating if a student enrolls and then does attend class for 30 days because many schools don not take attendance. I don't know how we will know if they are there, and we don't know if they drop out, how will we ever get this information to the appropriate law enforcement that they could look up, and then after they have looked them up and found them, found if they just tired of going to school or were in fact a terrorist? It is a very large country and a very big problem.

The recommendation I have when you go through this chart that you have shown us on the SEVIS here, and you are going to address information that goes back and forth between the schools after they have selected and are in the original process, if you write those regulations before that is finally disseminated, would you pick a few people from the schools that actually deal with this and run that by them before you send it out as something official?

Ms. Sposato. The regulations that we published in May set forth the requirements, the proposed requirements for the schools, and the information that they need to enter into SEVIS and the timing for that. And the schools have commented, which is one of the reasons that it takes time to get your final regulations out. But we do have many comments from the schools.

Chairman McKeon. So you are not writing more; you are just going to write a final document.

Ms. Sposato. That is correct, based on the comments that we have.

Chairman McKeon. Thank you very much. Thank you, Mr. Chairman.

Chairman Hoekstra. I just want to reinforce, I think, the point that Ms. McCollum was making a little bit earlier. She asked about the funding. I think what you are driving at, and maybe you can correct me, but concerning the fees, we don't want to come back in February or March and hear that SEVIS isn't working because you didn't have enough resources.

Ms. Sposato. I understand that.

Chairman Hoekstra. That is, I think she was providing you with the opportunity to say, well, you know, Congress just hasn't given us the resources to make this system work the way that you want. And you know, if we come back in March or April of next year and find out that SEVIS is not up and functioning it is not working for the schools, the contractors didn't work out, and then if INS comes back and you said, well, you asked us to do that on the cheap, how could you have expected us to get that done. This was your opportunity to say we can't do it with those resources or under those constraints. All right.

Mr. Scott.

Mr. Scott. Thank you, Mr. Chairman. I just wanted to follow up a little bit that 299-1/2 border crossings; we are trying to find those who are going to be a danger to society. What we try to do is look at articulated indicia of guilt. It just seems to me that student status is not a good indicator. I mean, particularly when you don't separate the courses. I think somebody taking a history course as opposed to somebody taking a course in explosives would constitute different kind of indication of suspicion.

There are a lot of people crossing the border every day. You have got to focus your resources, and you mentioned 80 employees once, you mentioned 1,500 contractors some other time. That is a lot of assets that a great deal of focus of our agency sets on this. And I frankly haven't heard why we ought to be so suspicious of people going to major universities taking courses as opposed to a lot of other places we could be focusing the resources, particularly if these things worked. The INS has indicated that we are going to know it immediately.

I think the gentleman from California indicated, you know, if you drop out of school, even if the thing works perfectly, you are not going to know for several months. If somebody is here for evil purposes, it is going to be months down the line before this system can ever catch up with him.

Maybe somebody can indicate why we ought to be suspicious of students more than workers, visitors, or anybody else. Where is the indication that this is a dangerous group of people to be looking at?

Ms. Sposato. I would like to reply on that. I am not somebody who is suspicious of students. I think they are a wonderful addition. I went to a college that had many foreign students. I think they were a wonderful addition to my college and my university. And I am not particularly suspicious of students. Congress passed a law that required INS to put in place this tracking system, and that is what we are about. It is not a suspicion particularly of students.

Mr. Scott. Dr. Ward, should we be suspicious of these students?

Mr. Ward. No, but I do think that in a new security available with the aid of computers with massive data capacity, dealing with immigrant, with visitor and student status in a more systematic way is a good idea. I don't think it can be a substitute for intelligence. It does strike me if we have the capacity to do something like SEVIS, which, of course, is really just replacing what we did on paper some time ago, I do think there is some value in systematically dealing with these things. It also I think will treat students better, because one of the problems of the current systematic system is there are often logjams and poor treatment in getting the visa, just because the management structure was not effectively cross-wired between the Department of Education, the State Department and so on.

So I see this simply as a management improvement that will have some possibility of filtering out security issues. But ultimately security is an intelligence issue. I think the data systems we have now permit us to do that.

Mr. Scott. Does this seem to you to be a particularly complicated data entry system? Because all I saw up there was name, address, and a couple of other things.

Mr. Ward. In scale it is; but not in complexity, no.

Chairman Hoekstra. Thank you Mr. Scott.

You have asked the question a couple of times why we are tracking or why we are asking these folks to track this information. They are tracking because Congress told them to.

Mr. Scott. Well Mr. Chairman, I don't think that means that it is necessarily the right thing to do.

Chairman Hoekstra. No, I know.

Mr. Scott. We have heard the word "intelligence" used around here.

Chairman Hoekstra. But it was actually the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Probably went through the Judiciary Committee.

Mr. Scott. I am sure it did.

Chairman Hoekstra. And under there, it says, you know, the Attorney General shall develop and conduct a program to collect from approved institutions of higher education and designated

exchange visitor programs of the United States the information subscribed in subsection C and, you know, have the status, or applying for the status of non-immigrants under subparagraph F, J, or M. And I think those must be your student visas.

So, yes, these folks are just responding to what you in your ultimate wisdom as part of the Judiciary Committee asked them to do and what you had the rest of Congress to agree to do. And I don't know whether you voted for that bill or not.

Ms. McCollum. I wasn't here.

Chairman Hoekstra. Ms. McCollum was not here. We will leave it at that. I don't think there are any additional questions. I would like to thank the witnesses, the members, for their time today. Thank you for participating here. And the joint subcommittees stand adjourned.

[Whereupon, at 4:15 p.m., the joint subcommittees were adjourned.]

APPENDIX A -- WRITTEN OPENING STATEMENT OF CHAIRMAN PETER HOEKSTRA, SUBCOMMITTEE ON SELECT EDUCATION, COMMITTEE ON EDUCATION AND THE WORKFORCE, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

Opening Statement of Pete Hoekstra
Chairman
Subcommittee on Select Education

Hearing on "Homeland Security: Tracking International Students in Higher Education – Progress & Issues since 9-11."

Tuesday, September 24, 2002

Good afternoon. Thank you all for being here today. We appreciate your willingness to share your insights and expertise into the activities of institutions and the various Federal agencies that are involved in the monitoring of international students studying in the United States. More importantly, we look forward to the information you can share about how your monitoring activities have changed since 9-11 and the hearing these subcommittees held last October.

We are here today to learn about the implementation of the Student Exchange and Visitor Information System, otherwise referred to as SEVIS, what issues are still outstanding in having it fully operational and what the interaction between all the players, that is, institutions of higher education, INS and the State Department, have been. One issue that has gotten some press recently is the concern of some about the January 30, 2003 deadline for the

implementation of SEVIS. Some say that the deadline is impossible to meet, yet others, such as the American Association of State Colleges and Universities, representing more than 430 public four-year colleges and universities and who submitted testimony for the hearing record, say the deadline is "reasonable." We need to better understand what is driving the issues around this deadline. We are also interested in hearing the testimony of Mr. Fine, the Department of Justice's Inspector General. He will elaborate on the May 20, 2002 report outlining the problems associated with two of the 19 hijackers in particular, how the SEVIS system may or may not avoid those same problems in the future, and what he sees as the outstanding issues associated with student visas.

It will be of great value to hear from all of our witnesses today as to what, if anything, each has done, outside the SEVIS system, to ensure that students who enter this country for the purposes of studying here actually fulfill that obligation and can be accounted for. During our hearing last fall, we learned that government agencies needed to improve their sharing of information and that this could be improved without Congressional action. I believe we referred to this problem as a cultural issue and an issue of trust. I am very interested to hear if any of those barriers, presumed or

real, between law enforcement agencies and others have been removed and what affect, if any, the development of a Department of Homeland Security will have on this issue.

Clearly, security for the citizens of the United States must be our priority. However, having said that, we also want to ensure that students from around the world continue to have access to the best postsecondary education system available. We also want to continue the sharing of cultures and ideas, which makes the world in which we live safer overall by removing many stereotypes and misperceptions. There must be away to accomplish both of these goals and do so in an efficient and effective manner.

APPENDIX B -- WRITTEN OPENING STATEMENT OF REPRESENTATIVE JOHN F. TIERNEY, SUBCOMMITTEE ON 21ST CENTURY COMPETITIVENESS, COMMITTEE ON EDUCATION AND THE WORKFORCE, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

Congress
of the
United States
House of Representatives
JOHN F. TIERNEY
MASSACHUSETTS
SIXTH DISTRICT

Statement by Congressman John F. Tierney (MA-06)
U.S. House Education and the Workforce Committee
21st Century Competitiveness and Select Education Subcommittees
09-24-02 Hearing on "Homeland Security: Tracking International Students in Higher Education - Progress and Issues Since 9-11"

Thank you Mr. Chairman for holding this hearing. I would like to add my appreciation for the witnesses coming to testify before the subcommittees today. I am interested in hearing about the progress the Immigration and Naturalization Service has made in administering SEVIS, the Student and Visitor Exchange program, since our hearing on this subject last October.

As the only New England member serving on the Education and Workforce Committee, I have heard from educators in my home state of Massachusetts - where we have 117 institutions of higher education - who want the international student visa program to work. Obviously, educators in all these schools - as in schools across the country - have as their primary goal a safe and secure learning environment within a free and secure nation.

They have expressed to me their strong view that welcoming international students to their campuses affords us the opportunity to interact with the rest of the world. These students – many raised in vastly different cultures, including those where they are taught negative stereotypes about America, are able to experience an environment of positive interchanges, while they contribute to the intellectual achievements and cultural richness of our universities, promote understanding across cultures, and acquire an appreciation for the American values of freedom and democracy.

At the same time, we all know that poor administration of the student visa program is a threat. Two of the September 11th hijackers manipulated the student visa program to remain in the country. We must do all we can to prevent this from ever happening again.

Some propose a total ban - an end to new student visas - but that is not a silver bullet. Punishing all foreign students in an effort to root out a few nefarious characters will not solve the problem, and will have a chilling effect on academic freedom.

Indeed, the President of the Massachusetts Institute of Technology, Charles Vest, wrote to me to express this concern, saying: "a blanket freeze is likely to be as unworkable as it is unsound and will be counterproductive to our strategic and economic needs. Even a limited ban on student visas will seriously damage our essential relationships with other nations. It will aggravate our national shortage of highly skilled scientists and engineers."

We can reduce risk and promote vibrant international educational experiences in American schools; indeed we must do so or risk a brain drain to other countries, including Canada, Australia and the UK, that do not close their borders to students.

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That is why I prefer a balanced approach to allow foreign students who play by the rules to continue their education in America. In December, I joined with my colleagues under the leadership of George Miller and cosponsored, HR 3515, the International Student Responsibility Act, some of whose provisions are contained in SEVIS. We proposed to require criminal background checks before students are allowed to enter the US, and close tracking while they are here. When SEVIS began, we were told that the Administration would dedicate significant resources so that educators had the technical assistance they needed to keep international student programs in place; so that computers could interface; and, so that the government agencies such as INS, Justice and State which had not effectively communicated before 9/11 could cooperate.

Unfortunately, as the new school year begins, many students are being left behind due to inefficient implementation of this program. As The Boston Globe reported yesterday, hundreds of students enrolling or returning to Massachusetts colleges and universities have been delayed or prevented from entering the country because of new security policies, including extensive background checks on male applicants from Arab or Muslim countries.

One of those students, a third-year Harvard Law School student now stranded in London without a visa, noted that adding hurdles for students may be more harmful than helpful, in the long run, to out national interests. "It's getting at the wrong people," he told the Globe, "It's targetting liberal Arabs who would go back home and change their countries."

That is not acceptable to the vast majority of international students who have played by the rules and pose no threat to us, nor to American schools that are enriched when international students including the law student I just quoted share their experiences with our kids and take home positive views of the United States such as academic freedom and equality of opportunity.

I expect that our Administration witnesses will convey Congress' concern that they make every effort to use the tools and taxpayer dollars we gave them to implement this program effectively, and I look forward to their testimony today.

APPENDIX C -- WRITTEN OPENING STATEMENT OF CHAIRMAN HOWARD P. "BUCK" MCKEON, SUBCOMMITTEE ON 21ST CENTURY COMPETITIVENESS, COMMITTEE ON EDUCATION AND THE WORKFORCE, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

Opening Statement of Howard P. "Buck" McKeon
Chairman
Subcommittee on 21st Century Competitiveness

Hearing on "Homeland Security: Tracking International Students in Higher Education – Progress & Issues since 9-11."

Tuesday, September 24, 2002

Good Afternoon,

I want to welcome our witnesses here today and thank them for taking the time to appear before the subcommittees to inform us of what has occurred in the improvement of the monitoring of international students attending postsecondary institutions in the United States.

In the hearing held last October, we learned a great deal about how an international student wanting to study in the United States goes about obtaining an I-20 from a school, which is necessary to apply for a student visa. We learned about the different kind of visas, F-visas for those studying on the undergraduate level, J-visas for exchange students, M-visas for those seeking specific technical training and B-visas being for tourists. We also learned, due to the straightforward and upfront testimony of our witnesses, some of the shortcomings of what was then the monitoring system, as well as some weak points in the sharing, or lack of sharing, of information between agencies involved in the monitoring of these students. We also heard from an institution and from students, explaining what the process is like for them.

The previous testimony, made clear to me the importance of continuing the exchange of ideas and cultures through international education and of bringing the best and the brightest from other countries together with students here in the United States. It was also made clear that international students are an important source of revenue for postsecondary institutions in the United States.

We are here today to learn what has occurred since that last hearing and the tragic events of September 11th to preserve the safety and security of our citizens, while at the same time, preserving the right of those seeking to enter the United States to avail themselves of the best education the world has to offer. We also are here to learn about the implementation of the Student Exchange and Visitor Information System, also known as SEVIS, and what the system will actually do and what the responsibilities are of each of the various parties, that is, the Immigration and Naturalization Service, the State Department and postsecondary institutions.

It is encouraging to hear that all parties are committed to getting the SEVIS system up and running. I am interested in hearing how the process has gone thus far and to learn what, if any, problems still exist in its full implementation. It will also be important to hear from the Inspector General from the Department of Justice as to what still needs to be done even once the SEVIS system is up and running. In the May, 20, 2002 report, the Inspector General indicated that it will take more than just SEVIS to fully monitor and secure the student visa system. I am looking forward to the insight and expertise that can be shared with us.

Finally, what, if anything, do we here in Congress need to do to insure everyone's continued cooperation and commitment to the SEVIS system and in the ongoing quest for education, freedom and safety here in the United States.

Thank you again for joining us here to discuss this important topic.

APPENDIX D – WRITTEN STATEMENT OF GLENN A. FINE, INSPECTOR GENERAL, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, D.C.

Statement of

GLENN A. FINE
Inspector General
U.S. Department of Justice

before the

U.S. House of Representatives
Committee on Education and the Workforce
Subcommittee on 21st Century Competitiveness
Subcommittee on Select Education

concerning

Homeland Security: Tracking International Students in Higher Education – Progress and Issues Since 9-11

September 24, 2002

Statement of Glenn A. Fine
Inspector General, U.S. Department of Justice
before the
U.S. House of Representatives
Committee on Education and the Workforce
Subcommittee on 21st Century Competitiveness
Subcommittee on Select Education
September 24, 2002

Mr. Chairman and Members of the Subcommittees on 21st Century Competitiveness and Select Education:

I. INTRODUCTION

I appreciate the opportunity to appear before the Subcommittees to discuss the Immigration and Naturalization Service's (INS) implementation of its system to monitor foreign students studying in the United States.

This afternoon, I will discuss the findings from our May 2002 report entitled, "The Immigration and Naturalization Service's Contacts With Two September 11 Terrorists: A Review of the INS's Admissions of Mohamed Atta and Marwan Alshehhi, its Processing of their Change of Status Applications, and its Efforts to Track Foreign Students in the United States." Along with analyzing the INS's contacts with two September 11 terrorists and the INS's handling of their change-of-status forms, our report examined how the INS admits and monitors foreign students studying in the United States. The report also analyzed in detail the INS's new tracking system for foreign students, the Student and Exchange Visitor Information System (SEVIS).

My statement will discuss areas in which we believe the INS has made significant progress toward implementing SEVIS. It also will offer the Office of the Inspector General's (OIG) perspective about areas in which the INS needs to focus additional efforts to improve its implementation of SEVIS and its monitoring of foreign students.

In sum, our review of the INS's existing foreign student program found numerous deficiencies, including an antiquated, inadequate data collection and monitoring system. The INS's implementation of SEVIS will help solve some of the problems the INS has had tracking foreign students. SEVIS can reduce fraud in the program, improve data collection and analysis, and enhance the INS's enforcement capabilities.

The INS has stated that it will implement SEVIS fully by January 30, 2003, and during the last several months it has expended significant efforts to achieve this goal. However, while SEVIS technically will be operational by

January 30, we have concerns about whether the INS will be able to complete all the steps necessary to ensure full and proper implementation by that date. Our concerns include whether, by January 30, 2003, the INS will assign and train sufficient numbers of dedicated staff to review and approve the schools' applications to access SEVIS; whether SEVIS will be operational at all INS ports of entry, service centers, and consular posts; whether the INS will conduct sufficient and thorough site visits of schools applying to accept foreign students; whether the INS adequately will train school officials to use SEVIS; and whether the INS will train INS inspectors and investigators adequately to use SEVIS to detect fraud.

Before discussing these concerns, I will summarize the findings from our May 2002 report and the INS's progress in implementing SEVIS.

II. EVALUATION OF THE INS'S FOREIGN STUDENT PROGRAM

Our May 2002 report described why the INS mailed forms notifying a Florida flight school that two September 11 terrorists had received approval to change their immigration status from "visitors" to "students" six months after the terrorist attacks. The mailing of these forms raised questions about the INS's handling of change-of-status applications for Atta and Alshehhi and their three admissions into the United States in 2000 and 2001. It also raised serious concerns about the INS's monitoring and tracking of foreign students in the United States.

Our review found that the INS's adjudication of Atta's and Alshehhi's change-of-status applications and its notification to the flight school were untimely and significantly flawed. First, the INS took more than 10 months to adjudicate the two men's applications, which were submitted in September 2000. As a result, Atta's and Alshehhi's applications were not adjudicated until July and August 2001, respectively, well after they had finished their flight-training course at the Florida flight school. Second, the INS adjudicator who approved their applications did so without adequate information, including the fact that Atta and Alshehhi had left the country two times after filing their applications, which meant they had abandoned their request for a change of status. And third, even after the INS took 10 months to approve the applications, the notification forms were not sent to the Florida flight school for an additional 7 months, until March 2002, 6 months after the attacks of September 11. This additional 7-month delay occurred because the INS failed to adequately supervise a contractor who processed the documents.

As part of our review, the OIG evaluated the INS's processes for admitting foreign students and for certifying schools as eligible to receive foreign students. We also evaluated the INS tracking systems for foreign students – its paper-based system, and SEVIS, its new Internet-based system. I will now summarize the results of these aspects of our review.

A. Background on the Student Visa Process

The State Department is responsible for issuing student visas to foreign students who want to study in the United States. It is the responsibility of the INS, however, to determine which schools are entitled to accept foreign students, to inspect the documentation of persons arriving with student visas, to keep track of the entries and exits of foreign students, to know whether students are continuing to maintain their status once in this country, to facilitate the removal of students once their status ends, and to approve appropriate requests to acquire student status by aliens who are in the country through some other classification. Responsibility for each of these obligations is divided among several different offices, divisions, and branches within the INS, as well as among private contractors working for the INS.

Historically, the INS has not handled these responsibilities adequately and has acknowledged that it does not know how many foreign students are in the United States. In addition, the INS lacks accurate data about the schools that are authorized to issue I-20s (the INS form that contains identifying information about the school and the prospective student, including the course of study for which the student has been accepted and information about the student's financial resources). In addition, the INS lacks accurate data on individuals who obtain student visas, their current status, and whether fraud is being perpetuated in the foreign student program.

For example, an important component of the INS's foreign student program is the school certification process, which allows the INS to ensure that a school is legitimate and not simply an operation designed to assist foreigners to enter or remain in the country fraudulently. Yet, INS district offices assign the responsibility for approving and recertifying schools to adjudicators or inspectors only as a collateral, low-priority duty accounting for a small percentage of their time. We found that these inspectors and adjudicators – called "schools officers" – do not review adequately the schools' applications for certification or recertification. In addition, the INS rarely conducts site visits of schools prior to or after certification and relies primarily on written representations from the schools.

INS investigators and adjudicators consistently reported to us that they believe that fraud with I-20 forms is prevalent. The current forms contain few security features and are relatively easy to counterfeit. Schools receive multiple blank forms, and many schools that are no longer approved to issue such forms still retain a supply of I-20s.

Moreover, the INS's current database for recording information about the status of foreign students and schools relies on information from paper forms that are supposed to be sent to the INS and uploaded into a database. But the

information that is inputted into this database is incomplete, unreliable, and riddled with inaccuracies. For example, of 200 schools we reviewed from the database's list of active schools, we found that 86 appeared to no longer be in operation. Of the 114 schools still in operation, 40 had incorrect addresses and 16 had incorrect names. Two of the schools in the database were not even approved to issue I-20s and should never have been in the system.

B. Implementation of SEVIS

Our May 2002 review concluded that SEVIS will help solve many of the problems the INS has had in the past tracking foreign students. For example, SEVIS will improve the data collection on students and schools. Schools no longer will be required to fill out forms that must be mailed to the INS and then sent by the INS to a contractor for data entry. Instead, the schools will enter information about students directly into SEVIS or into their own computer systems that will then upload the data to SEVIS. Through SEVIS, the INS and schools also will be able to identify more easily when students' change of status has been approved because students' SEVIS record will be electronically updated by the INS service centers once processing is complete. In addition, SEVIS will eliminate the current manual process in which paper I-20s are returned to the school after adjudication of the change-of-status form. Furthermore, the INS and schools will be able to determine easily through SEVIS when and where students entered the United States.

SEVIS also should help the INS detect I-20 fraud by schools and students. Only INS-approved schools with access to SEVIS will be able to create I-20 forms for students. The INS will be able to decertify automatically schools that violate program requirements by invalidating the schools' passwords, thereby preventing the schools from issuing I-20s. Since I-20s will be generated only through SEVIS, fraudulent or expired I-20s will be more difficult to use. In addition, any I-20s not used by students can be invalidated automatically through SEVIS, preventing others from fraudulently using them. INS investigators will be able to collect useful information by analyzing SEVIS data, such as identifying schools that have significant numbers of students who have been admitted longer than typical degree programs require.

Yet, despite the improvements anticipated with SEVIS, we found problems in the INS's student program that implementation of the SEVIS computer system alone will not solve. We concluded that unless the INS devotes sufficient resources and effort to implement and use SEVIS effectively, many of its current problems in tracking and monitoring foreign students who come to the United States to attend school would continue to exist. First, the INS still must review and approve manually the applications of schools seeking certification or recertification to enroll foreign students. To properly certify, recertify, and monitor schools, we recommended that the INS assign full-time personnel to these tasks. Unless on-site visits are conducted and the INS

follows up on questionable information submitted by schools, many current deficiencies will continue to exist.

We found that the INS did not have any formal, mandated training program at each school for the officials who have the responsibility for complying with INS record-keeping and reporting requirements, for monitoring violations of student requirements to the INS, and for notifying the INS of material changes in the schools' programs, accreditation, and level of education offered. While school associations provided some training, particularly for the larger public and private universities, the training was not geared toward smaller schools. INS officials told us that many school employees who deal with the foreign student program were inexperienced, untrained, and unaware of INS regulations.

For example, the designated school official at Huffman Aviation, the Florida flight school at which Atta and Alshehhi received flight training, told the OIG that she only recently had been assigned to the job and received no training when she certified the men's change-of-status forms. As a result, she said she was unsure what to do with Atta's and Alshehhi's I-20 forms and that either Atta or Alshehhi had directed her on the proper procedures for completing the forms.

Like the designated school officials, we found that INS personnel assigned to approve and monitor schools also had not been provided formal training. We learned that many employees are uncertain as to what they are supposed to be looking for when certifying schools. These INS employees also commented on the lack of clarity in the regulations and INS guidelines for the approval process. We recommended that the INS develop training programs for both INS schools officers and designated school officials.

While SEVIS should improve data collection, the data will be useful only if the INS monitors and analyzes the information and investigates instances of potential fraud. At the time we released our report, the INS had not determined who, if anyone, would perform these analyses. Enforcement to uncover school fraud historically has been a low priority at the INS, and investigative resources devoted to this issue have been limited. Although better information will be available to detect fraud, it was not clear to us if the INS will use this information any more fully than in the past.

In our report, we also raised concerns about the INS's ability to implement SEVIS fully by January 30, 2003, as required by statute. At the time, the INS indicated that it intended to recertify all of the approximately 70,000 schools currently authorized to issue I-20s.

Our report offered 24 recommendations to help address the problems that the Atta and Alshehhi cases highlighted and that our review of the INS foreign student program revealed.

III. ASSESSING THE CURRENT STATUS OF SEVIS IMPLEMENTATION

A. INS Progress

In late July, the INS formally responded to the 24 recommendations contained in our report. Since that time, the INS has continued to make significant strides toward implementing SEVIS. In this section, I highlight some of the positive steps the INS has taken to improve its monitoring of foreign students studying in the United States.

1. School Certifications

The INS is making substantial efforts to meet the school certification deadline. On July 1, 2002, the INS published its first certification rule, which permitted schools meeting certain requirements to enroll preliminarily in SEVIS. These schools will not require site visits prior to certification. This category consists of what the INS considers "lower-risk" schools, such as public schools and accredited colleges and universities. Schools in the low-risk category must be accredited by an organization recognized by the Department of Education and must have been approved by the INS for the past three years to accept foreign students. For purposes of this rule, the INS determined that flight schools should not be considered low risk.

We believe that this approach is a reasonable strategy, as long as the INS verifies independently the schools' accreditation. During our May 2002 review, we found that 9 of 114 active schools sampled were not accredited, despite such claims on their applications.

The INS reports that soon it will publish a second certification rule to cover schools that do not fall into the first category. The schools in this category will require site visits prior to approval.

2. Foreign Student Program Manager

The INS concurred with our recommendation to appoint a foreign student program manager to coordinate, and be accountable for, immigration issues affecting foreign students. At the time of our review, the foreign student program was handled by many different INS offices, resulting in inconsistent policies, lack of accountability for the program, and a failure to carefully and systematically consider the impact of any changes on the program. The INS responded to our report by centralizing responsibility for its foreign student

program with the INS Executive Associate Commissioner for Field Operations and assigning a senior field manager to lead the program.

3. Site Visits

The INS is planning to conduct site visits of all schools enrolled in SEVIS. While lower-risk schools are being allowed to preliminarily enroll in SEVIS without an initial site visit, the INS plans to visit each of these schools within the next two years. For the higher risk schools, the INS is making site visits a prerequisite for enrollment in SEVIS. This approach is an important step because it helps prevent fraudulent schools from obtaining access to SEVIS.

4. Periodic Recertifications

The INS plans to require schools to undergo recertifications every two years. During our review, we found that a primary reason for the inaccuracies in the INS's schools database was the lack of such periodic recertifications. As a result, the INS was not aware of schools that had closed and, consequently, it continued to maintain these schools in its active database. We also noted during our review that the INS's last school recertification – conducted in 1983 – identified numerous instances of fraud. For example, one school that was not approved by the INS was accepting foreign students using the code from a defunct school. We believe periodic recertifications are critical to ensuring the accuracy of SEVIS records.

B. The OIG's Continuing Concerns

Despite the substantial efforts made by the INS, we continue to believe that full implementation of SEVIS is unlikely by January 30, 2003, based on the amount of work that remains to be accomplished. By full implementation, we mean that schools will be recertified and inspectors, adjudicators, consular officers, INS officials, and designated school officials will be trained on how to use SEVIS and what to do in the event the system is not functioning. Our ongoing concerns have more to do with the process of certifying school eligibility, training, and the INS's dedication of adequate resources to the effort rather than with SEVIS's technical implementation. I now will discuss several of our continuing concerns.

1. School Certifications

While the INS has made significant strides with respect to school certifications, it has not yet published its rule pertaining to certification of flight, vocational, language, and other "higher-risk" schools, all of which will need site visits prior to certification. According to the INS, this rule was approved by the Office of Management and Budget on September 17 and soon will be published. The INS intends to have contract investigators using INS-

developed checklists perform these site visits. The INS has indicated that it has hired three contract investigation companies to perform the site visits and that by January 30 the contract investigators will be able to visit all the schools that apply for certification. We believe that this will be a difficult task, and we also are concerned about the comprehensiveness of the contractors' reviews, particularly given the expedited time frame.

In order to monitor the INS's progress on this issue, we have asked the INS for additional details on its approach, including: (1) information on how the INS intends to fund the contract investigators; (2) details on who within the INS will be responsible for approving the certification applications and for monitoring the contract investigators; (3) details on any quality control reviews to be done by the INS of the site visits conducted by the contract investigators; and (4) a timeline showing target dates for completing the certification process.

2. Oversight of Contract Investigators

We are concerned about the INS's ability to adequately train and oversee the contract investigators, a necessity in order to ensure consistent school reviews. According to the second certification rule, the INS expects contract investigators to collect documentation in support of the school's application during each site visit, tour the campus, interview school officials, and review selected school records for compliance with SEVIS regulations.

Because contract investigators will be under time constraints to complete the visits, we believe the INS needs to develop a monitoring and oversight process that will ensure the thoroughness of investigators' reviews. Given the time constraints, the INS needs to ensure that thoroughness, rather than speed, remains the investigators' top priority.

3. Audits

In our May 2002 report, the OIG recommended that the INS ensure that audits of certified schools are conducted to determine whether proper internal controls are in place and whether SEVIS data is being entered completely, accurately, and timely. The INS concurred with this recommendation and informed the OIG that the primary mechanism for conducting these audits would be on-site visits by the contract investigators. The INS also said that it would identify the need for additional audits through its analytical reviews of the activities of approved schools.

We reviewed the draft checklist developed by the INS for use by the contract investigators and noted that for each school the INS plans to provide the names of five students for the investigator to verify while on site. (The checklist offers no details on how this verification is to be accomplished.) In our opinion, review of five files per school may not be sufficient; rather, a better

sample might be based on a specified percentage of foreign students enrolled in each school.

Further, we are concerned with the INS's response to this recommendation because it is unclear whether the contract investigators who will conduct the site visits will be qualified to perform audits that involve an assessment of internal controls and a sampling of records. The Department of Education already requires schools participating in federal student financial aid programs to obtain independent financial and compliance audits. We believe the most effective way for the INS to ensure that SEVIS audits are performed would be to coordinate with the Department of Education to incorporate SEVIS reviews into its audits. While this suggestion should encompass the majority of schools, the INS still would need to ensure that the remaining schools were audited.

4. INS Personnel Dedicated to Schools Program

In its response to the OIG's May 2002 report, the INS stated that it has not yet determined who at INS district offices would review and approve schools' applications for enrollment in SEVIS. The INS stated that, contrary to our recommendation, INS personnel would not be dedicated to this task on a full-time basis. Rather, the INS said that this responsibility would be the "primary duty" of these INS employees, and full-time if warranted.

At the four INS district offices we visited during our May 2002 review, we found that the designated school officials were spending only 20 percent or less of their time on certifying and monitoring schools. Frequently, those individuals worked on other duties, such as processing other INS applications, when backlogs occurred. As a result, we found delays in processing school applications. In addition, we found that the schools officers reviewed applications in a perfunctory manner and did no follow-up monitoring to ensure that the schools continued to meet program requirements.

In order for SEVIS to operate effectively, the INS must train its employees on the new system. The INS convened SEVIS training sessions in June and requested that each district office send a representative. However, because the INS had not decided who specifically in the district offices will be certifying and approving schools, there is no assurance that the appropriate INS personnel attended the training sessions. Furthermore, our report noted the importance of providing SEVIS training not only to adjudicators, but also to INS inspectors and investigators. INS inspectors at the ports of entry need to be familiar with SEVIS in order to counter attempts by individuals posing as students to enter the United States fraudulently. In addition, SEVIS data will be useful to INS investigators to help identify fraud. We are not aware that any such training has been provided to these groups.

5. Training for Designated School Officials

The INS has not implemented any formal training on SEVIS for Designated School Officials (DSOs), the officials responsible for representing schools in all matters related to foreign students. DSOs determine students' academic and financial eligibility, ensure compliance with INS record keeping and reporting requirements, monitor students' activities and report violations, notify the INS of material changes in students' programs, and certify whether students are eligible to receive certain immigration benefits, such as employment. Only the individuals designated as DSOs by the school will be provided password access to SEVIS.

Throughout the past year, the INS has held a number of SEVIS demonstrations for school officials, and various school associations have provided training for their members. However, these training sessions were not mandatory and were not necessarily attended by DSOs from smaller schools (including flight schools) who are probably most in need of such training. During our May 2002 review, the INS had discussed developing a certification program that would require potential DSOs to complete an on-line training module prior to allowing them access to SEVIS. We are unaware of the status of this proposal.

6. Capturing Information about Part-Time Students

The law, as it currently stands, allows foreign visitors to attend classes in the United States on a part-time basis without having to obtain student visas. The INS does not currently collect information about these students or otherwise monitor them, and it does not plan to collect this information once SEVIS is implemented fully. Schools that offer courses on a part-time basis will not be included in SEVIS unless they also have full-time programs to enroll foreign students. These include flight schools and trucking schools, which often do not provide the minimum number of course hours per week that would place the school under the INS's monitoring system for full-time students.

To increase the INS's effectiveness in collecting information on foreign students, the OIG recommended that the INS consider monitoring part-time students in SEVIS. While we recognize that collecting information about every visitor who enrolls in a class or a short course of study would impose a significant burden on the INS, we believe the INS should take steps to determine what information should be collected about these students and schools.

The INS did not concur with this recommendation. The INS responded that it is working with the Department of State and Congress to draft legislation to allow part-time students from Canada and Mexico to study in the

United States under a new "F" nonimmigrant category. These students then would be included in SEVIS. However, the INS stated that it does not have the capability or the resources to track every nonimmigrant alien in the United States who enrolls in a limited course of study or individual course.

7. Detecting Fraud

Our May 2002 report discussed the need for the INS to analyze the data from SEVIS and investigate instances of potential fraud. While an improved computer system will enhance the information available to the INS, it will be useful only in the detection of fraud if the INS devotes resources to monitoring the information and investigating instances of potential fraud.

For example, the data in SEVIS could be analyzed to compare the capacity of the school program and the number of students accepted or enrolled in the program. Past fraud investigations have identified schools that were accepting hundreds of students beyond the actual capacity of the school. The data could be used to compare the length of the course and the actual length of students' enrollment. A review of F-1 programs in one state identified numerous cases where schools were reporting students being in active status for as long as seven years beyond the normal course of study. A review of schools with extremely high percentages of no-shows or program dropouts could indicate a potential alien smuggling operation.

Finally, SEVIS must be available throughout the INS in order to maximize its potential. During our review, the INS discussed plans to connect to SEVIS ports of entry, consular posts, INS Service Centers, and INS district offices. We have requested a copy of the INS's timetable for connecting these locations to SEVIS, but to date have not received further information on the status of these efforts. For the purpose of detecting fraud, it is extremely important that consular officers and INS primary inspectors, in particular, have the ability to access SEVIS in order to determine whether an I-20 is *bona fide*.

IV. LEGISLATIVE OVERSIGHT

The Subcommittees asked for suggestions about what Congress can do to improve the monitoring of international students studying in the United States. First, we believe that continued congressional interest and oversight can have an important impact on the program. We believe that the INS has made substantial strides toward implementing SEVIS. However, we believe that SEVIS should remain an INS priority. When other new and important issues confront the INS in the future, we believe that the INS should not reduce its attention on the foreign student tracking system. Continued congressional oversight can help ensure that full implementation of SEVIS remains a priority.

Second, the INS cannot fully or effectively implement the system without sufficient resources. The agency needs resources to hire staff to oversee the approval and monitoring of schools, to conduct analytic reviews to detect fraud, and to follow up on the information generated. In our report, we recommended that the INS use future SEVIS fees to support the additional positions needed. This would help ensure that the INS establishes dedicated positions to perform these functions. However, approval of the fees has been delayed, and this may result in a lack of required resources.

Third, we think it important for Congress to consider whether part-time foreign students should be incorporated into SEVIS. Currently, only data pertaining to full-time students and exchange visitors will be included in SEVIS. As a result, foreign students attending schools, such as flight schools and trucking schools, which often do not provide the minimum number of course hours per week to qualify as full-time courses of study, would not be included in SEVIS.

V. CONCLUSION

We believe that SEVIS will significantly enhance the INS's ability to monitor foreign students in the United States and will improve its ability to prevent and detect fraud. We also believe that the INS has made significant strides in implementing SEVIS. It appears that the INS will have a system operational and available by January 30, 2003, and will have taken many critical steps toward implementing the system. I believe the INS deserves significant credit for its efforts.

However, although we believe that SEVIS will be operational by January 30, we question whether it will be implemented fully by that date. For SEVIS to be implemented fully, and for the program to succeed, we believe the INS must ensure that INS personnel and school officials are adequately trained, that schools are certified by January 30, that schools are required to undergo routine recertification reviews that will include thorough site visits, that SEVIS is available throughout the INS and consular posts, that SEVIS data is analyzed to identify noncompliant and fraudulent operations, and that the INS swiftly enforces the law when it identifies fraud.

These are difficult tasks, but we believe they are necessary for SEVIS to be implemented fully and for the system to achieve its full potential in improving the INS's foreign student program.

This concludes my prepared statement. I would be pleased to answer any questions.

APPENDIX E -- WRITTEN STATEMENT OF STEPHEN A. EDSON, ACTING MANAGING DIRECTOR, DIRECTORATE OF VISA SERVICES, BUREAU OF CONSULAR AFFAIRS, U.S. DEPARTMENT OF STATE, WASHINGTON, D.C.

STATEMENT OF

STEPHEN A. EDSON
ACTING MANAGING DIRECTOR, VISA SERVICES
BUREAU OF CONSULAR AFFAIRS
UNITED STATES DEPARTMENT OF STATE

BEFORE THE

SUBCOMMITTEES ON 21ST CENTURY COMPETITIVENESS AND SELECT EDUCATION
COMMITTEE ON EDUCATION AND THE WORKFORCE

UNITED STATES HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2002

Thank you for the opportunity to appear before you this afternoon to explain the State Department's role in the electronic verification of student and exchange visitor visas, and to provide you with an update on our implementation efforts.

It is a tribute to the quality of the education system in the United States, and to the opportunities offered by a myriad of U.S. educational and cultural exchange programs, that so many foreign nationals continue to pursue academic and cultural opportunities here. Our student and exchange visitor visa policy is based on the democratic values of an open society, and the general perception that such visitors make an important contribution to our nation's intellectual and academic climate as well as to our nation's economy.

At the same time, the need to more accurately monitor the presence and activities of those visitors while they enjoy the benefits of our open and democratic institutions is abundantly clear. We in

the State Department are actively participating with the INS and the exchange community in the design and development of the Student and Exchange Visitor Information System (SEVIS).

State is working closely with INS to develop the processes link that will allow our embassies and consulates around the world to first confirm the SEVIS records of student and exchange visitor visa applicants, and then inform the INS of every student and exchange visitor visa that we issue. I defer to my INS colleague to outline SEVIS in detail, but I believe it is the permanent system that will contribute to our national security as it adds integrity to the student and exchange visa issuing process.

At the same time we are working on SEVIS implementation, in response to a separate legislative mandate the Department has launched the Interim Student and Exchange Authentication System (ISEAS), which will provide for the electronic verification of student and exchange visitor visas until SEVIS is fully implemented.

ISEAS is a web-page based system that allows consular officers to verify the acceptance of foreign students and exchange visitors who apply to enter the United States in student ("F," "M") and exchange visitor ("J") nonimmigrant visa categories based on information the schools or exchange program sponsors enter directly into the system. That portion of the legislative mandate that requires the Department to inform INS of F, M or J visa issuance will be accomplished using the existing datashare link.

As you know, Section 501(c) of the Enhanced Border Security and Visa Entry Reform Act of

2002 mandates that from September 11, 2002 - which is 120 days after the Act's passage - until SEVIS is fully implemented, "[a] visa may not be issued to a student or exchange visitor unless the Department of State has received from [an approved educational institution or exchange visitor program] electronic evidence ... of the alien's acceptance at that institution, and a consular officer has reviewed the applicant's visa record."

ISEAS is the means by which INS-approved educational institutions, and Department-designated exchange programs meet this legislative requirement. Consistent with the legislation, ISEAS is being established as an interim system, with the limited support and capacity implied by the term. ISEAS will stand alone for its entire lifetime, and will not be able to share any data with SEVIS. This is significant because as mandatory SEVIS compliance grows near, and more and more educational institutions and designated program sponsors become SEVIS compliant, we will find ourselves in a situation where designated officials will have to electronically register visa applicants into two separate databases (ISEAS and SEVIS), and consular officers will have to check both data bases to confirm the provenance of those documents, until ISEAS sunsets with final SEVIS implementation on January 30, 2003.

How does ISEAS work?

Aliens who wish to obtain visas to study or participate in an exchange program in the United States must first apply to an educational institution that has been approved by the INS (in the case of "F" and "M" student visas) or the Department of State (for exchange visitor "J" visas). When a student or exchange visitor accepts an offer to study or engage in other exchange

program activities, the approved institution or program sponsor must complete the appropriate form. Academic or language institutions must complete the Form I-20 A-B, "Certificate of Eligibility for Nonimmigrant (F-1) Student Status." Vocational schools must complete the Form I-20 M-N, "Certificate of Eligibility for Nonimmigrant (M-1) Student Status." Designated Exchange Visitor programs must complete Form DS-2019, "Certificate of Eligibility for Exchange Visitor (J-1) Status."

Section 501(c) of the Act requires the approved institution or designated exchange program sponsor to transmit electronic evidence of the applicant's acceptance to the Department. Academic institutions and program sponsors enter information from the required forms into the ISEAS web application (provided at www.iseas.state.gov <http://www.ISEAS.state.gov>) for transmission to the Department.

ISEAS consists of two independent computer based subsystems with data transferred between the two. The first subsystem contains an Internet website with a direct link for approved institutions and exchange visitor programs to enter data from the appropriate acceptance document. To ensure data integrity, the ISEAS Internet subsystem validates the identification data entered by the designated institution or program official against approved lists of institutions or program sponsors. INS approved institutions or program sponsors correspond to F and M visas, and State Department, Bureau of Educational and Cultural Affairs approved institutions or program sponsors correspond to J visas.

Once ISEAS confirms that the institution or program is on one of the approved lists, the

designated institution or program official will enter certain student or exchange visitor data, and the system returns to the school or exchange official a confirmation number which is maintained as part of the student's record. The ISEAS confirmation number will serve as evidence that a particular visa applicant's data has been entered into the ISEAS system, and is one of the search criteria available to consular officers in the field.

Due to the very short development period mandated by the legislation, we were unable to deploy ISEAS before September 11. Consequently, participating academic institutions and program sponsors were unable to enter the required data into ISEAS in advance.

That fact, coupled with the Act's clear wording - no student or exchange visitor visa can be issued after September 11, 2002, without electronic evidence of documentation of the alien's acceptance - meant that ISEAS deployment represented a potentially significant interruption of student and exchange visitor visa processing. We were concerned that many participating institutions and program sponsors would be unable to enter the required data into the system quickly enough to maintain smooth processing of student and exchange visitor visas.

Therefore, to minimize ISEAS' impact on visa processing, we devised back-up procedures to ensure that consular officers receive timely status verification directly from sponsoring institutions and programs during the first 30 days of ISEAS operation, September 11 through October 11, 2002.

In our ISEAS notification to posts, we advised consular sections that if a particular F, M or J visa applicant's data is not in ISEAS, the applicant should be advised to contact his or her sponsoring

institution or program and advise it of the need to enter data into ISEAS. Should the ISEAS option prove unworkable, then during the first 30-days of ISEAS' lifespan posts may accept direct e-mail confirmation of acceptance.

In cases of particular urgency, posts may send e-mail inquiries directly to the sponsoring institutions and request e-mail confirmation of enrollment. If in a particular case a post cannot make the electronic verification directly, the Visa Office working with our colleagues in the Bureau of Educational and Cultural Affairs will seek the electronic verification from the sponsoring institution and forward the electronic verification to post.

State Department officers have alerted sponsors regarding the processes that are in place and have asked that they respond promptly to any inquiries from our consular officers.

In the days since ISEAS launched we have communicated telephonically and via e-mail with hundreds of academic institutions and exchange program sponsors, working through technical and notification issues and facilitating the electronic notification of students and exchange visitors both within the ISEAS system, and when startup technical issues inhibited access to the system, by utilizing the backup procedures mentioned a moment ago.

ISEAS was intended to be an interim mechanism to collect information on foreign students and exchange visitors pending SEVIS development and not a comprehensive solution to better track these nonimmigrant individuals. Mr. Chairman and Members of the Committee, as of the close of yesterday's business day, over 2,300 educational institutions and exchange program sponsors

have entered over 36,800 records into ISEAS. 193 visa-issuing posts have verified over 2,600 cases. ISEAS has provided both the Department and INS a better system to verify incoming foreign and exchange students, until SEVIS becomes operational in January 2003.

Thank you, Mr. Chairman and members of the committee, for permitting me to share this information with you this morning. I would be pleased to answer any questions that you might have.

APPENDIX F -- IMMIGRATION AND NATURALIZATION SERVICE'S STUDENT AND EXCHANGE VISITOR INFORMATION SYSTEM (SEVIS) DEMONSTRATION SCREENS

Student and Exchange Visitor Program

The Student & Exchange Visitor Information System (SEVIS)

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SEVIS Create Student - Microsoft Internet Explorer
File Edit View Favorites Tools Help
Back Forward Stop Refresh Home Search Favorites History Mail Print Discuss
Address C:\WINNT\Profiles\Administrator\Desktop\SEVIS_Templates\HTML\apply\create_StudentFormSample.htm
SEVIS - Create Student
New Student for Mount Holyoke College
Sposato, Janis
School: Mount Holyoke College
Required fields are marked with an asterisk (*)
23.* Number of Months in Academic Term:
24. Expenses:
*Tuition and Fees: $ 26,250
*Living Expenses: $ 7,720
Expenses for Dependents: $ 0
Other Costs: $ 0
Specify Other Costs:
Total Expenses: $ 33,970
27. Funding:
*Student's Personal Funds: $ 30,000
Funds from this School: $ 2,000
School Fund Type: Scholarship
Funds from Other Sources: $ 2,000
Other Source Type: Private Scholarship
On-Campus Employment: $
Total Funding: $ 37,000
28. Remarks:
Print Draft
Print
Reset Values
Next
Save Draft

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APPENDIX G – WRITTEN STATEMENT OF JANIS SPOSATO, ASSISTANT DEPUTY EXECUTIVE ASSOCIATE COMMISSIONER, IMMIGRATION SERVICES DIVISION, IMMIGRATION AND NATURALIZATION SERVICE, WASHINGTON, D.C.

STATEMENT

OF

JANIS SPOSATO
ASSISTANT DEPUTY EXECUTIVE ASSOCIATE COMMISSIONER
IMMIGRATION SERVICES DIVISION
U.S. IMMIGRATION AND NATURALIZATION SERVICE

REGARDING

HOMELAND SECURITY: TRACKING INTERNATIONAL STUDENTS IN HIGHER EDUCATION – PROGRESS AND ISSUES SINCE 9-11

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON EDUCATION AND THE WORKFORCE
SUBCOMMITTEES ON SELECT EDUCATION AND 21ST CENTURY COMPETITIVENESS

2:00 P.M.
TUESDAY, SEPTEMBER 24, 2002
2175 RAYBURN HOUSE OFFICE BUILDING

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I am Janis Sposato, Assistant Deputy Executive Associate Commissioner for Immigration Services Division (ISD).

Thank you for the opportunity to update the Committee on the considerable progress the Immigration and Naturalization Service (INS) has made in implementing a new system that will greatly enhance our ability to track and monitor foreign students and exchange program visitors, progress that leaves us confident that we will meet the congressionally mandated deadline for full implementation.

This Internet-based system, known as the Student and Exchange Visitor Information System (SEVIS), will maintain critical, up-to-date information about foreign students and exchange visitors, and their dependents, and will allow for electronic access to this information. As such, it will enable the INS to track students in the United States more accurately and more expeditiously.

Introduction and Background

The INS is exerting greater control over the institutions authorized to admit foreign students in F and M visa status. The INS believes that for this brand new SEVIS system, review of all schools is the best method to ensure integrity. To facilitate the review of all INS-approved schools and to ensure the enrollment of all eligible schools in SEVIS in a timely manner, the INS has implemented a two-phased process for school review and SEVIS enrollment. Phase 1 was a preliminary enrollment period in which schools that have been INS-approved for at least the last three years to admit foreign students and are recognized as accredited or Title IV by the Department of Education were reviewed and granted access to SEVIS. Phase 2 will involve the certification of a school after a full review, including an on-site visit in many cases. For some

schools, the on-site visit will verify their bona fides, but more importantly, the on-site visit will help ensure record-keeping and reporting compliance, as well as confirm that the schools are aware of their responsibilities. An interim rule that will explain the school certification process will be published in the near future.

The INS began accepting and reviewing school petitions for eligibility (Form I-17) in SEVIS as of July 1. As of September 11, 2002, there were 1,921 schools currently in various stages in the system. On July 15, 2002, the INS began enrolling and granting full SEVIS access to schools that submitted an electronic petition and that meet the preliminary enrollment criteria. That means that as of September 11, 736 schools were issuing and updating student records electronically in SEVIS. Also since that date, 595 schools had completed and submitted an electronic petition and were awaiting approval to use SEVIS. Another 590 schools created and saved drafts of such petitions but had not yet submitted a completed petition for adjudication. Upon approval, these schools will be able to access SEVIS to create and update student records.

SEVIS is part of an overall tightening of foreign student procedures and rules that INS is undertaking. Back in April, the INS published an interim rule that prohibits B nonimmigrant visitor visa holders from attending school prior to obtaining approval of a change to student status. Another proposed rule published in the Federal Register would, for example, prohibit aliens from changing from visitor status to student status unless they declared that intention at the time of visa issuance or admission to the United States. We are currently in the process of drafting that final rule.

Although the INS has improved many aspects of the overall foreign student program in the last months, the major focus of our efforts has been towards implementation of SEVIS.

SEVIS enables schools and exchange visitor program sponsors to transmit electronic information and event notifications, via the Internet, to the INS and the Department of State (DOS) throughout a student's or exchange visitor's stay in the United States. Schools and exchange programs will update certain new information in SEVIS including, but not limited to, changes of address, program extensions, employment notifications, and changes in program of study. SEVIS will also provide system alerts and reports to the schools and exchange visitor program sponsors, as well as to INS and DOS offices.

How SEVIS Works

SEVIS, as a fully implemented system, will be an integrated system that incorporates information directly from schools, exchange programs, several INS systems, and the DOS. Before moving onto specifics about the progress made thus far, and the further development efforts already underway, I would like to give you an overview of the student process as it will work once SEVIS implementation is complete on January 1, 2003.

A prospective foreign student or exchange visitor first applies for a[illegible]ssion to a school or acceptance by an exchange program sponsor. If accepted, the school or exchange program sponsor accesses SEVIS to input the data and to issue a Form I-20 or Form DS-2019. Therefore, at the time any Form I-20 or DS-2019 is printed, the information is entered into the SEVIS database. It is important to point out that prospective student in M, F or J status may have applied to and been accepted by more than one U.S. institution and therefore may have more than one Form I-20 or DS-1019. After the foreign student or exchange visitor decides which school to attend, he or she will apply to a United States consulate or embassy to submit an application for a student or exchange visitor visa. During the visa screening process, the DOS officer will have

access to SEVIS data to help verify the information and validate the Form I-20 or DS-1019. If the visa is approved, visa data is sent by the DOS to INS and Customs systems, and is updated in SEVIS. At the point of visa issuance, any Forms I-20 or DS-1019 that may have been issued to the foreign student by other schools become invalid and will be deactivated in SEVIS.

The foreign student or exchange visitor arrives at a U.S. Port-of-Entry. As the student or exchange visitor is inspected and admitted, the INS Port-of-Entry system will provide entry data to SEVIS, which will then be available to the school to notify them that a foreign student intending to attend their school is in the country and should be reporting for class. The student will then arrive at the school and register for class. Once the student has physically reported and enrolled, the school will report and update SEVIS, confirming arrival. If a foreign student fails to enroll, the student's SEVIS record will be terminated as out of status and notice will be provided to INS investigative and enforcement offices. If the student has properly enrolled, any changes in address, name, course of study, employment, transfers and other monitored events should be reported by the student to the school's responsible officer, who will update SEVIS. If the student decides to continue studies at a higher academic level, for instance, a progression from undergraduate to a master's program, tracking will continue in SEVIS. Once the foreign student graduates, completes his or her current program or any practical training, the foreign student should depart the United States and return to his or her home country or, in accordance with U.S. law, change to another immigration status. As you can see, we are moving with SEVIS toward a system that provides a more accurate and up-to-date picture of a foreign student's stay in the United States.

SEVIS Current Status

The INS issued a proposed rule on May 16, 2002 to implement SEVIS and to address foreign student processes and procedures. This rule was open for a thirty-day comment period, which closed on June 17, 2002. Under the proposed rule, SEVIS participation by all schools enrolling foreign students will become mandatory by January 30, 2003. The INS completed its review and analysis of the 152 comments, and a final rule has been drafted and is in the clearance process.

We have finalized what is generally referred to as "batch" technical specifications, which provides an optional method for the schools to report large volumes of data, system-to-system. In 2001 and 2002, INS sponsored SEVIS technical conferences for vendors, designated school officials, school representatives, and the public. These conferences were supplemented by another public technical conference on June 13, 2002 in Washington, DC. Since that conference, upon the request of the American Council on Education (ACE), the INS delayed final posting of the batch technical details in order to meet with ACE and the Postsecondary Education Standards Council (PESC) for one last comment and review opportunity. In fact, we were able to incorporate some of their recommendations into the final version of the batch SEVIS Interface Control Document, which was posted for public availability on August 15, 2002. Batch functionality will be available for SEVIS schools to utilize this fall.

In addition to ACE, the INS interfaces regularly with NAFSA: Association of International Educators. In addition, the INS has met with other groups, including the American Association of Collegiate Registrars and Admissions Officers (AACRAO), the National Association of State Universities and Land-Grant Colleges (NASULGC), the National Association for Equal Opportunity in Higher Education (NAFEO), and the National Association

of College and University Business Officers (NACUBO). For the last year INS had regularly scheduled SEVIS seminars across the country to provide the information necessary to schools and programs to begin implementation of SEVIS. With the publication of the proposed rule and the deployment of the system in July, INS transitioned from providing informational seminars to providing a SEVIS-dedicated, national call center with multiple tiers to answer technical and policy-related questions. Furthermore, SEVIS staff still frequently participate in conferences at national and regional level educational conferences. INS is also publishing its third issue of "SEVIS – Smart," a newsletter with updated information on the student and exchange visitor program. The newsletter, along with current policy memos, proposed regulations, frequently-asked-questions, and technical specifications are posted on the SEVIS public webpage (www.ins.gov/graphics/services/tempbenefits/sevp.htm), all in an effort to provide the community with the most up-to-date and accurate information. The most recent effort toward outreach involves the production of a SEVIS training video that was taped during a live broadcast involving 108 community colleges in the California educational system. The tape will be transferred to DVD and will be available to educational organizations to be used for their own training needs.

We are confident that we will meet the January 1, 2003 date established by the USA PATRIOT Act for making SEVIS available. Our proposed rule, and our present plan, is to require schools to begin using SEVIS for all new I-20s issued after January 30, 2003. In fact, we have deployed the initial operational version of SEVIS six months prior to the USA PATRIOT Act deadline. The INS will continue to enroll schools and is working aggressively to enhance SEVIS toward full implementation. The $36.8 million appropriation provided by the Congress

in the Counter-Terrorism Supplemental has facilitated the development and implementation of the system.

Continuing Efforts Towards Full Implementation of SEVIS

The INS is working toward enhancing our data share arrangement with the DOS Office of Consular Affairs in order to electronically provide SEVIS data for verification during the visa issuance process. INS and DOS currently have a Nonimmigrant Visa (NIV) Datashare arrangement, whereby DOS is sending all nonimmigrant visa issuance data to INS and Customs systems. SEVIS plans to extract data of all the F (academic), M (vocational), and J (exchange visitor) records from that existing arrangement.

The SEVIS program staff have been working closely with the INS Entry/Exit program staff in order to collect data, such as date and port of entry as mandated by the USA PATRIOT Act. SEVIS has been included in the functional requirements for phase 1 of a comprehensive entry/exit system. Phase 1 consists of the Visa Waiver Permanent Program Act (VWPPA) Support System, which leverages existing information technology systems, specifically the Advance Passenger Information System (APIS) and the Arrival Departure Information System (ADIS) to capture data electronically. This first phase of the entry/exit system will provide entry data on all F, M and J aliens to SEVIS at all air and sea Ports-of-Entry. For those Ports-of-Entry not yet included in the entry/exit system, we will have alternative processes to provide data to SEVIS and notice to the schools.

Significant Events Affecting SEVIS

The strides that we have made and the plans for further development of SEVIS have been, in part, shaped by a number of recent events. I would like to note some of these events, to provide greater context for our achievements.

On October 29, 2001, the President directed the Secretary of State and the Attorney General, in conjunction with other relevant departments and agencies to develop a program to strengthen international student processes. The President reaffirmed the importance of tracking international students and exchange visitors, and called for the INS to conduct periodic reviews of institutions certified to enroll foreign students and exchange visitors to ensure school compliance with record-keeping and reporting requirements. The INS is implementing the President's guidance through the implementation of SEVIS, and the review and certification of schools during the SEVIS enrollment process.

On May 14, 2002, the Enhanced Border Security and Visa Entry Reform Act (Border Security Act) of 2002 was signed into law. In addition to addressing information collection, updates, and reporting elements, the Border Security Act requires schools to report the failure of a foreign student to enroll within 30 days after their registration deadline. The INS has established a toll-free, 1-800, number for schools to report a foreign student's failure to enroll, and once all schools are enrolled they will be able to report directly in SEVIS. The INS is also required by this legislation to review all schools every two years to ensure compliance with record-keeping and reporting requirements.

On May 20, 2002 the Department of Justice's Office of the Inspector General (IG) issued a report entitled "The Immigration and Naturalization Service's Contacts With Two September 11 Terrorists: A Review of the INS's Admissions of Mohammed Atta and Marwan Alshehhi, its

Processing of their Change of Status Applications, and its Efforts to Track Foreign Students in the United States." Sections of this report identified deficiencies in the foreign student process and made recommendations, many of which were already being planned or implemented by the INS. The report also questioned INS' ability to meet the SEVIS implementation deadlines. As I testify today, we believe we are on track to disprove the IG's finding. Further, through our timely implementation of SEVIS, the INS will have addressed many, if not all, of the concerns raised by the IG regarding student tracking.

Conclusion

Mr. Chairman, full implementation of SEVIS will revise and enhance the process by which foreign students and exchange visitors gain admission to the United States. The INS, through SEVIS, will increase its ability to track and monitor foreign students and exchange visitors in order to ensure that they ve in the United States, show up and register at the school or exchange visitor program, and properly maintain their status during their stay as valued guests in this country. SEVIS better enables us to keep our eyes open for and track those who may come to America for the wrong reason, while extending a hand in friendship to those seeking the knowledge that this great country has to offer. Implementing SEVIS will allow our nation to strike the proper balance between openness to international students and exchange visitors and the security obtained by enforcing our nation's laws.

APPENDIX H -- WRITTEN STATEMENT OF DR. DAVID WARD, PRESIDENT, AMERICAN COUNCIL ON EDUCATION, WASHINGTON, D.C.

Testimony of

Dr. David Ward

President
American Council on Education
and
Chancellor Emeritus
University of Wisconsin, Madison

before the

U.S. House of Representatives
Committee on Education and the Workforce
Subcommittees on 21st Century Competitiveness
and Select Education

in regard to

"Homeland Security: Tracking International Students in Higher Education – Progress & Issues Since 9-11"

September 24, 2002

Testimony of Dr. David Ward
President, American Council on Education
before the
House Committee on Education and the Workforce
Subcommittees on 21st Century Competitiveness and Select Education
September 24, 2002

Mr. Chairman, my name is David Ward and I am president of the American Council on Education. As the members of this Committee know, ACE represents 2,000 public and private colleges and universities. I am testifying today on behalf of those institutions as well as the 76 education and exchange visitor organizations listed at the conclusion of my testimony. Taken together, we represent almost every institution of higher education and every exchange program in the United States today.

We believe that international students and exchange visitor programs are enormously beneficial to this country. They dramatically increase the knowledge and skills of our workforce. They boost worldwide appreciation for democracy and market-based economics and give future world leaders first-hand exposure to America and Americans. At the same time, international education generates billions of dollars in economic activity every year.

The most important benefits of international students and exchange visitors cannot be easily quantified. But we know what they are. Start with international understanding. In the current economic climate, we need more and better efforts to enhance international understanding. One of the best ways to do this is through the everyday classroom discussions that one finds on college and university campuses. Candid discussion enhances familiarity – and familiarity leads to understanding. When foreign students and exchange visitors return home, they take with them a first-hand understanding of this country and its

values. Indeed, some of America's strongest supporters abroad are those who have spent time in this country.

International students and visitors also bring knowledge and skills to U.S. classrooms, laboratories and businesses. The sum total of their intellectual contributions is enormous. For example, the rapid developments in information technology that helped fuel the economic growth of the 1990s benefited immeasurably from foreign students and scholars from Southeast Asia who visited this country in the late 1980s. In the same vein, a central feature of the advances in biomedical research that will pave the way for gains in the quality and length of life in the future are collaborative efforts between native and foreign-born researchers now taking place in thousands of American laboratories.

International students add diversity to college classrooms. For many native-born students, foreign students offer the first chance for a sustained friendship with someone born in another country. As the world grows ever smaller, meaningful exposure to international students will better prepare American students to live and compete in the global economy.

This does not mean that the economic benefits are trivial. According to the Institute for International Education, the nearly 550,000 foreign students who visit this country purchase some $11 billion a year in goods and services. They do this when they pay tuition, rent an apartment, buy a pair of jeans, get a pizza, or go to a movie. Of course, like everyone else, international students and exchange visitors pay taxes on the goods and services they purchase. If they are allowed to work when they are here, they also pay federal and state income tax.

According to the U.S. Commerce Department, higher education is the nation's fifth largest service-sector export. In an era when many policy makers

and economists worry about our huge trade deficit, the presence of international students helps reduce it.

These economic calculations do not include the 275,000 exchange visitors who come to our shores every year. Adding them would dramatically increase the economic impact that local communities realize from international visitors.

In short, the benefits of international students are unambiguous and overwhelming. So it is not surprising that President Bush has said: "The United States benefits greatly from international students who study in our country." Or that he has committed his Administration to "continue to foster and support international students."

Secretary of State Colin Powell – no stranger to what is in America's international interests – says that international education "encourages and sustains democratic practices, creates a cohort of future leaders who understand each other's countries from the inside, and promotes long-term linkages between institutions here and abroad." The list of foreign heads of state that have studied at an American college is long and distinguished. The State Department has concluded that fully one-half of the world leaders who agreed to support our war on terrorism first came to this country as a foreign student or exchange visitor.

This does not mean that we can or should be comfortable with current procedures that govern international students and exchange visitors. The events of September 11th changed much in this country. Many of the policies and practices that had evolved over the last two decades have been the subject of careful examination and sustained discussion – the process by which international students and exchange visitors enter the country and are monitored once they have arrived is no exception.

For as long as colleges and universities and exchange visitors programs have been sponsoring international students and exchange visitors, we have collected and maintained information about those individuals. As required by law, this information has been transmitted to the Immigration and Naturalization Service (INS) and the Department of State. It has always been a paper-intensive effort to maintain this data. For example, a copy of each new visa eligibility document (an I-20 or IAP-66/DS-2019) goes to these agencies upon admission of a student or exchange visitor. In addition, all applications that would result in a change of status or reinstatement of a student-visitor are approved by the appropriate agency.

We used to prepare annual reports on international students for the INS as well. In 1988, however, the agency was drowning under mounds of reports that they could not use or process and INS instructed colleges to maintain the information on campus for the agency's use when it needed or wanted information. We continue to do this, and a typcial university has dozens of file cabinets full of information on international students.

In the mid 1990s, INS began to develop an electronic system that would allow the information on these students to be shared instantly. For a variety of reasons, implementation of this system lagged far behind schedule. However, in light of the September 11th attacks, Congress mandated that INS implement the system, now known as the Student and Exchange Visitor Information System (SEVIS) and, last December, appropriated $36 million to make this possible. Congress mandated that SEVIS be operational at INS by January 1, 2003 and INS has proposed that institutions of higher education and exchange visitor programs be fully compliant by January 30, 2003.

American Council on Education, Office of the President

SEVIS is an extraordinarily large and complex information technology system. When fully operational, it will link all U.S. embassies and consulates, all INS ports of entry in this country, the State Department's Office of Exchange Coordination and Designation and its Bureau of Educational and Cultural Affairs, every institution of higher education that sponsors international students, and every exchange visitor program.

Let me be clear about our position. We support the prompt implementation of SEVIS. We believe SEVIS is the single most important step the federal government can take to improve the monitoring of international students and exchange visitors. In addition, SEVIS will perform other important functions. It will, for example, enable the Social Security Administration (SSA) to verify critical information on foreign visitors who apply for a Social Security Number. The process currently used by SSA to issue numbers is slow and paper-intensive, and it will benefit everyone—most of all international students and exchange visitors—to be able to do this more rapidly. SEVIS will make that possible.

In the last year, INS has made great progress in implementing SEVIS. The agency has assigned dedicated staff to the project and consulted regularly with education and exchange visitor programs throughout the process. They solicited our advice and, in several areas, modified the system to incorporate concrete suggestions that we made. INS is an easy agency to criticize, but they deserve a great deal of credit for the progress they have made in developing and refining this enormously complex undertaking.

But there is much that remains to be done before SEVIS will be operational. And it is the completion of these unfinished tasks that will determine whether the ultimate implementation of SEVIS goes smoothly, as we hope, or is instead characterized by chaos and confusion—as we fear.

American Council on Education, Office of the President

By January 30, 2003, INS currently expects all institutions who are allowed to issue I-20s (somewhere between 7,500 and 74,000, nobody knows for sure), and all exchange visitor programs who issue IAP-66/DS-2019s (roughly 1,500), to enter data into SEVIS for all new students and exchange visitors and for any visa holders who request a change of visa status.

Colleges, universities, and exchange visitor programs will make all possible efforts to implement SEVIS by this deadline. Additional staff has already been hired and existing staff is working overtime. A flotilla of software vendors is rushing to prepare information technology packages for schools and exchange visitor programs to purchase.

But despite the progress that INS has made and our own commitment and desire to see SEVIS functioning as soon as possible, we are deeply concerned that schools and exchange visitor programs will face enormous difficulties when compliance is required.

We are worried because, at this point, with roughly 125 days to go, schools and exchange visitor programs have very little information to enable us to implement this new system on campus. Government policies work best when those who must administer them know exactly what is required and have at least a modest amount of time to prepare.

The Higher Education Act recognizes the importance of providing notice to schools, students, and lenders of regulatory changes that will affect the administration of the student aid programs. Under the "Master Calendar," the Department of Education must publish final regulations by November 1 in any calendar year for the regulations to take effect the following July 1st. If the agency

misses the deadline by even one day, the regulations cannot take effect until July 1st of the succeeding year. This is a firm standard that helps structure the regulatory process. But more important, it allows all parties affected by ED's regulations to adjust processes and make changes in information technology systems.

As I noted above, however, all schools and exchange programs must be fully compliant with SEVIS by January 30, 2003. At this point, there is a staggering amount of information that we need and do not have. And, as the time to get ready and make necessary changes on campus evaporates, our anxiety only increases.

Let me share with you some of the ambiguities that we currently face.

- The regulations governing SEVIS and international student visas ("F" and "M") have not been published in final form. They must still be reviewed and cleared by both the Justice Department and the Office of Management and Budget (OMB). Frankly, we do not expect them before Thanksgiving. Without these, of course, we do not know what our specific responsibilities are.

- The regulations governing SEVIS and exchange visitor visas ("J") that must be issued by the State Department (not INS) have not even been published in *draft* form. The draft regulations have been under review at OMB for more than 100 days. Given this delay, we are unlikely to have final "J" regulations until *after* we are expected to be in full compliance. Again, without regulations, we do not know what is expected of us.

- The regulations detailing what schools must do to become "recertified" to issue I-20s have also not been published. If schools have not been recertified, INS will have no certainty that the institutions issuing I-20s are legitimate educational institutions even after SEVIS begins operation. As the members of this Committee know from long experience, fraudulent schools are a cancer. We want every single fraudulent school closed as quickly as possible. But some high-quality schools may find themselves unable to issue I-20s to international students because the government lacks the time and regulatory authority to review them before the January 30th deadline.

- INS has not yet determined how many campus officials—called Designated School Officials or DSOs—will be permitted to process or enter data into SEVIS. Because of the added workload created by SEVIS, campuses—especially those with a large number of international students—will need more DSOs.

- "Batch processing," a key element of SEVIS for schools or exchange programs with more than 200 students or visitors, will not be ready for full operational testing until mid-October at the earliest. The "batch processing" test announced by the INS last week will allow schools and exchange programs to test the system only in the most preliminary manner.

- Schools have hundreds of technical operational questions and have had very uneven success in getting answers from the INS help desk. According the Department of Justice Inspector General, INS has not

provided adequate training to its own regional office staff that will advise campuses about SEVIS implementation.

- The amount of the fee that students must pay to be registered in the SEVIS system and the procedure for collecting the fee remain unsettled.

- INS has no meaningful plans for training for campus officials. We believe that giving local officials—who come from both information technology and international education—a chance to ask questions directly to INS would inform campus and exchange visitor programs and would give INS a far better idea of the questions that campus and exchange visitor programs have about this new and complex system.

- Adding to the complexity, the State Department, as required by the Enhanced Border Security and Visa Entry Reform Act, put a temporary system in place two weeks ago to monitor international students and exchange visitors on a preliminary basis. Known as the Interim Student and Exchange Authentication System (ISEAS), this is, in essence, a pre-SEVIS electronic tracking system with different requirements than we will face under SEVIS. There is absolutely no linkage between ISEAS and SEVIS.

Again, I underscore that INS has done a commendable job of developing the SEVIS computer system and that we fully support efforts to implement SEVIS as soon as possible. Unfortunately, they are implementing SEVIS on such an aggressive schedule that many questions remain unanswered and numerous technical details remain in flux. In some cases, we are waiting for INS to act and

in other cases, the delay is attributable to other agencies. This is not an effort to criticize or assign blame because SEVIS is exceptionally complicated and the government's desire to "get it right" is commendable. But these delays dramatically reduce the amount of time that institutions and exchange visitor programs will have to implement SEVIS and this will, in turn, lead to chaos and confusion at the local level.

An analogy might best summarize our concern. We are afraid that this is a public policy version of musical chairs – and when the music stops and the compliance date arrives – colleges, universities and exchange visitor programs will all be left without a seat.

While a significant amount of information will be entered in SEVIS this February, the first dramatic influx of data is likely to occur in March and April when exchange sponsors begin processing the applications of roughly 100,000 individuals who come to the U.S. annually as camp counselors and summer workers in the travel and tourism industry. The sectors of the economy that rely on these individuals – resorts, amusement parks, national parks, and summer camps – depend on these workers. Unfortunately, the regulations to govern these individuals have not yet been published even in draft form.

As I noted above, colleges and universities will do all we can to implement SEVIS by the compliance date. However, we are deeply concerned that efforts to implement SEVIS without adequately preparing campus officials and exchange visitor programs will make it harder for international students and exchange visitors to enter the country, and that this will reduce the enormous benefits that the United States has historically enjoyed from welcoming visitors to our shores.

We strongly encourage the INS, the State Department, and the other government agencies to take the necessary steps to ensure that colleges and exchange visitor programs can implement SEVIS successfully. Rather than forcing the implementation of SEVIS into an unachievable schedule, we encourage INS to rely on the State Department's ISEAS system for a few months until SEVIS is truly operational. The multi-million dollar ISEAS system means that the federal government currently has a fully operational electronic student and exchange visitor monitoring system in place and we believe this system could be used for the small number of additional months it will take to complete the preparatory work on SEVIS.

Mr. Chairman, America's colleges and exchange visitor programs are anxious to see SEVIS implemented but we cannot do our part well or effectively until we know exactly what is expected of us. Right now, we do not. We hope that INS and the other government agencies will fill in the blanks as soon as possible.

I appreciate the opportunity to be with you and would be happy to take questions. Thank you.

On behalf of:

Academy for Educational Development
Accrediting Association of Bible Colleges
AIFS, Inc.
Alliance for International Educational and Cultural Exchange
American Association for Higher Education
American Association of Colleges of Nursing
American Association of Colleges of Osteopathic Medicine
American Association of Colleges of Pharmacy
American Association of Collegiate Registrars and Admissions Officers
American Association of Community Colleges
American Association of Presidents of Independent Colleges and Universities

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American Council on Education, Office of the President

American College Personnel Association
American Council on Education
American Councils for International Education: ACTR/ACCELS
American Dental Education Association
American Institute for Foreign Study Foundation
American Institute for Practical Training
American Society for Engineering Education
American-Scandinavian Foundation
Amity International
ASEE Engineering Deans Council
Associated Colleges of the Midwest
Association of American Colleges and Universities
Association of American Medical Colleges
Association of American Universities
Association of American Veterinary Medical Colleges
Association of Catholic Colleges and Universities
Association of Chiropractic Colleges
Association of Independent Colleges of Art & Design
Association of International Education Administrators
Association of Jesuit Colleges and Universities
Association of Southern Baptist Colleges and Schools
AuPairCare
AYUSA
British Universities North America Club
Coalition of Higher Education Assistance Organizations
Consortium of Universities of the Washington Metropolitan Area
Consortium on Government Relations for Student Affairs
Council for Advancement and Support of Education
Council for Christian Colleges & Universities
Council for Higher Education Accreditation
Council for International Programs USA
Council for Opportunity in Education
Council of Directors of Title VI National Resource Centers for Foreign Language and Area Studies
Council of Graduate Schools
Council of Independent Colleges
Council on International Educational Exchange
Educational Testing Service
Educational Testing Service
EDUCAUSE
Evangelical Lutheran Church in America
Hispanic Association of Colleges & Universities
Institute of International Education

InterExchange
International Exchange of North America
Intrax English Institute
Intrax WorkTravel
Lutheran Educational Conference of North America
NAFSA: Association of International Educators
National Association for College Admission Counseling
National Association for Equal Opportunity in Higher Education
National Association of College and University Business Officers
National Association of Graduate-Professional Students
National Association of Independent Colleges and Universities
National Association of Schools and Colleges of The United Methodist Church
National Association of State Universities and Land-Grant Colleges
National Association of Student Financial Aid Administrators
National Association of Student Personnel Administrators
National Council for International Visitors
National Council of Organizations of Less Commonly Taught Languages
Teachers of English to Speakers of Other Languages, Inc.
The College Board
United States Student Association
University Continuing Education Association
World Education Services
YMCA International Program Services

American Council on Education, Office of the President

Committee on Education and the Workforce

Witness Disclosure Requirement – "Truth in Testimony"
Required by House Rule XI, Clause 2(g)

Your Name: DAVID WARD

	Yes	No
1. Will you be representing a federal, State, or local government entity? (If the answer is yes please contact the committee).		✓

2. Please list any federal grants or contracts (including subgrants or subcontracts) which you have received since October 1, 1999:

Attached.

	Yes	No
3. Will you be representing an entity other than a government entity?	✓	

4. Other than yourself, please list what entity or entities you will be representing:

American Council on Education.

5. Please list any offices or elected positions held and/or briefly describe your representational capacity with each of the entities you listed in response to question 4:

President, American Council on Education.

6. Please list any federal grants or contracts (including subgrants or subcontracts) received by the entities you listed in response to question 4 since October 1, 1999, including the source and amount of each grant or contract:

Attached.

	Yes	No
7. Are there parent organizations, subsidiaries, or partnerships to the entities you disclosed in response to question number 4 that you will not be representing? If so, please list:		✓

Signature: David Ward Date: 9-23-02

Please attach this sheet to your written testimony.

APPENDIX I – IMMIGRATION AND NATURALIZATION SERVICE'S RESPONSES TO REPRESENTATIVE BETTY MCCOLLUM, REPRESENTATIVE RUBEN HINOJOSA AND CHAIRMAN HOWARD P. "BUCK" MCKEON'S QUESTIONS

U.S. Department of Justice
Immigration and Naturalization Service

HQADN 70/21.1.24

Office of Congressional Affairs

425 I Street NW
Washington, DC 20536

OCT 30 2002

The Honorable John A. Boehner
Chairman
Committee on Education and the Workforce
2181 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

This letter transmits the Immigration and Naturalization Service (INS) responses to the questions raised during the September 24, 2002, hearing before the House Education and Workforce Committee.

1. What will it cost the INS, a foreign student and a school to administer SEVIS (Representative McCollum)?

As directed by the Congress, INS will run the foreign student program, which includes SEVIS, with a combination of appropriated and fee-generated money.

Appropriated Funds: Congress appropriated $36.8 million dollars for the development and deployment of SEVIS, and INS expects to use all of these funds.

Fees: In order to operate the system into the future, and to cover associated costs of the foreign student program (such as school certification, monitoring and training) INS will charge two fees. The first will be a certification fee charged to schools. At present, the fee is $230 plus $350 per campus charged at the time of application to enroll in the SEVIS system. There will also be a comparable fee charged to schools every two years at the time of recertification. The amount of the recertification fee has not yet been calculated. In addition to the school certification fee, there will also be a student fee. The student fee will be set at an amount to support the remaining program needs, and Congress has directed that the student fee not exceed $100. The Administration is presently in the process of setting the student fee, and we plan to publish a regulation regarding the fee in the near future.

With the exception of the fees charged directly by INS, we are not in a position to calculate the costs of the INS foreign student program to either schools or students. While we believe that the costs to students will be minimal, we recognize that compliance with the program will require the schools to incur some costs. We would predict that the school's program costs will vary widely from school to school, depending upon their number of foreign students, the efficiency of their current student program, the technology choices made by the school and similar factors. At the lowest level, we can tell you that SEVIS requires no more technology from a school than a single internet connection and that entry of the data on a new student can be accomplished easily within five minutes.

2. What schools and institutions are deemed "high risk" by INS (Representative McKeon)?

The INS does not have a list of "high risk" schools and institutions. The school certification regulation requires the INS to develop a risk analysis to prioritize the site visits for the schools. Such risks may involve risks of poor compliance with the foreign student program, financial insecurity and resulting closures. We have engaged a contractor and are in the process of collecting information to inform such risk analysis. In the mean time, we are conducting site visits to all language, flight and technical schools prior to enrollment in SEVIS.

3. Will all F and J students (new and continuing) that arrive on or after February 1, 2003 be required to have a SEVIS document or will documents issued before January 31, 2003 be valid for entry (Representative McKeon)?

For F nonimmigrant students, the proposed rule anticipated that students would be able to enter after January 30, 2003, with non-SEVIS I-20 documents, so long as the documents were issued prior to January 30, 2003. The proposed rule only required that documents issued after January 30, 2003, be SEVIS documents. We anticipate that the final rule will be published shortly.

The regulation governing J nonimmigrant students has not been published, and accordingly the rules governing J students are not yet fixed.

4. Will F and J visas currently issued by American consulates remain valid for entry after January 31, 2003 (Representative McKeon)?

SEVIS does not affect the validity of visas. Entry, however, also requires an I-20, which as described above, must be a SEVIS-issued I-20 if the date of the I-20 is after January 30, 2003.

5. **Will a new entry F or J visa be required once a SEVIS document is issued or will the SEVIS document be used in combination with a currently valid visa (Representative McKeon)?**

SEVIS I-20's may be used with a valid student visa, even if the visa was issued previously.

6. **There are vocational/technical and language schools that are certified by the INS to issue the Form I-20 because of licensing or certification by the Department of Education in the past. These schools are now asked to be accredited in order to be enrolled in SEVIS. Accreditation generally takes two years.**

If these schools do not meet your preliminary deadline to become accredited and enrolled in SEVIS – how much of an extension period is the INS willing to give the schools to be in compliance?

Are your current efforts in this regard closely coordinated with the Department of Education so that the accreditation agencies are also helping to improve our national goals for this new effort (Representative Hinojosa)?

A school does not need to be accredited to be in SEVIS. During the preliminary enrollment period, INS only accepted applications from certain accredited schools. That period has ended. All schools may apply to be in SEVIS today, and do not need to be accredited to be approved for enrollment in SEVIS. We do not plan to grant extensions to schools to become enrolled in SEVIS. After January 30, 2003 a school may not issue I-20s other than through SEVIS. If a school wishes to ensure that their application for enrollment in SEVIS is adjudicated in time to issue I-20s by January 30, they should apply for SEVIS certification by November 15, 2002. To reiterate, schools do not need to be accredited to apply or be accepted for SEVIS enrollment. INS has worked with the Department of Education in developing the SEVIS program, and we plan to continue to do so.

I hope that you find the answers to your inquiry responsive. If you need additional information, please let me know.

Sincerely,

FOR THE COMMISSIONER

Joseph Karpinski

Joseph Karpinski
Director
Congressional Relations and Public Affairs

cc: The Honorable George Miller
Ranking Member, Committee on Education and the Workforce

APPENDIX J -- STATEMENT SUBMITTED FOR THE RECORD BY RANKING MINORITY MEMBER, GEORGE MILLER, COMMITTEE ON EDUCATION AND THE WORKFORCE, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

Statement on International Student Visas

Hon. George Miller
Senior Democratic Member, Committee on Education and the Workforce

September 24, 2002

The SEVIS database is aptly named—our student visa program remains a sieve. SEVIS is a positive step, but it is only one small step.

First and foremost, the State Department must do much more to keep terrorists out of the country. Agencies are famously reluctant to share intelligence, but intelligence must be shared for it to be useful. We should also ask students' home countries to perform due diligence, rather than relying solely on information provided by the student.

Second, any tool is only as good as its user. INS needs to use SEVIS aggressively to monitor, investigate, and—if appropriate—deport visitors who are breaking the law. Unfortunately, INS's track record is not promising. According to the Justice Department, 300,000 people now live in the U.S. despite outstanding deportation orders. If INS doesn't enforce these orders, and investigate red flags raised by SEVIS, than the databases will be only a high-tech paper exercise.

Third, the INS has testified before this Committee that it has no idea how many students have already overstayed their visas. SEVIS will never identify these students. Moreover, SEVIS is years away from even attempting to identify stay-overs. To create an incentive to obey the law, we should ask our colleges to require students to return home or legally extend their stay in the U.S. before releasing their transcripts.

I value the contributions of international students to our colleges and universities. However, we must do much more than SEVIS to ensure that terrorists do not exploit student visas for their own purposes.

APPENDIX K -- TESTIMONY SUBMITTED FOR THE RECORD BY CONSTANTINE W. CURTIS, PRESIDENT, AMERICAN ASSOCIATION OF STATE COLLEGES AND UNIVERSITIES, WASHINGTON, D.C.

Testimony

Presented by

Constantine W. Curris
President
American Association of
State Colleges and Universities

To the

House Committee on Education and the Workforce
Subcommittee on Twenty-first Century Competitiveness

Regarding

Homeland Security: Tracking International Students in Higher Education - Progress & Issues Since 9-11

Submitted by

American Association of State Colleges and Universities

September 24, 2002
Washington, DC

House Committee on Education and the Workforce Testimony
By
Constantine W. Curris, President
The American Association of State Colleges and Universities
September 24, 2002

Mr. Chairman, members of the Committee, good afternoon. I am Deno Curris, President of the American Association of State Colleges and Universities, based here in Washington, DC. The Association is comprised of more than 430 public four-year colleges and universities and university systems throughout the United States and its territories. On behalf of our member institutions, I appreciate your invitation and am pleased to be able to offer you a brief statement about AASCU's role in supporting national security legislation and our views of the legislative impact on international students. I will share our views from the perspective of one AASCU member institution that is on the front line of the SEVIS implementation process.

Congressional and Agency Actions by AASCU:

AASCU wrote to key members of the judiciary committees about our views regarding the Foreign Student Monitoring Program in the Enhanced Border Security and Visa Entry Reform Act of 2002 (H.R. 3525). We stated our unequivocal and firm support for the SEVIS system and we pledged full support for the implementation of that system by the reasonable date of January 30, 2003. We assured committee members that AASCU institutions would do their part in assisting INS to implement the SEVIS system. A copy of AASCU's letter is attached to this statement.

On June 14, 2002, AASCU wrote INS to offer our assistance to meet the legislative requirements inherent in implementing the systems and fulfilling the requirements of the Act. Several of AASCU's recommendations are listed in this statement and suggest questions you may wish to pursue with Immigration and Naturalization Service (INS) officials.

Today, we offer insights from the State University of West Georgia, one of AASCU's member institutions that works closely with the Association in tracking the implementation of the legislation and regulations governing the admission, monitoring, and enrollment of international students in our public four-year colleges.

The University of West Georgia

Ms. Sylvia Shortt is Assistant Director of Student Development and International Student Advisor for the State University of West Georgia. Ms. Shortt's first-hand campus experiences and concerns with the implementation of the Student Exchange Visitor Information System (SEVIS) database and the Immigration and Naturalization Service (INS) are included in this statement. She particularly wanted to highlight the experience of the State University of West Georgia, a test pilot university for both the Coordinated Interagency Partnership Regulating International Students (CIPRIS) and SEVIS systems.

When the State University of West Georgia agreed to become a test campus, Ms. Shortt thought it was important for universities to develop a working partnership with the INS to

create a system that would work well for both parties. She likes to point out that initially the CIPRIS system, the precursor to SEVIS, was full of bugs, but West Georgia and other pilot schools worked diligently with INS for over one year to ultimately create a system that worked well.

Further, Ms. Shortt and the other AASCU member campuses remain committed to the SEVIS project. We all believe that international students are important to the United States. They are critical to the globalization efforts of our campuses; they promote stronger ties between the United States and home nations of visitors, who often become civic and economic leaders; they help build America's education and scientific preeminence; and they even provide revenue to offset our nation's negative balance of payments.

AASCU colleges and universities welcome international students. Yet no president or chancellor wants terrorists on campus, or anywhere else in the country. We believe that a strong, technologically advanced visitor information system is needed. We want SEVIS to be implemented as soon as possible, and pledge our support to achieve that end. It is with this heartfelt desire to work closely with the INS as it develops a workable system that I am sharing AASCU's views with members of the committee.

Concerns:

AASCU and the State University of West Georgia have several serious concerns about SEVIS:

1) Our chief concern is that the INS mandates that no I-20 forms will be allowed after January 30, 2003 except a SEVIS I-20 form. It should be understood that it will take time to convert all international students to the SEVIS program.

2) Additionally, we are interested in observing how the untested batch processing system is going to operate. SEVIS 2.0 was also an untested system and it has been so problematic that we are apprehensive it will be the same story with the batch processing software. We understand from INS that on September 23, 2002, the agency will have a website available for schools and vendors to begin testing their use of batch file transmissions to provide data to SEVIS. Schools and vendors will be able to test both the format of their files and their ability to send and retrieve their files from the INS processing site to test these batch processes.

3) Further, we are concerned that the INS regulations and the SEVIS 2.0 system are still so at odds that some students are going to be punished for the software's inability to function appropriately. For example, some current West Georgia students were kicked out of the database and their names did not survive the conversion to SEVIS 2.0 from SEVIS 1.0 or CIPRIS. These sorts of bugs within the system could harm these international students academically and keep them from receiving benefits from the INS.

4) One campus official told us that even Electronic Data Systems (EDS) employees, manufacturers of the SEVIS software, are frustrated with all the SEVIS 2.0 problems. A worker at the SEVIS Help Desk told one of our campus employees during a recent

phone call that this was a flawed software system and that he was terribly discouraged.

Recommendations:

1) For AASCU to honor its pledge of January 30, 2003 as an achievable date for institutional compliance, INS first needs to meet its deadline of January 1, 2003 to bring up the systems that are necessary to admit, monitor, and complete enrollment of international students. We are currently aware that INS will struggle to meet its own deadline. Recent testimony by INS officials cite logistical necessities—such as entering foreign students' names into the database, and inspecting participating institutions to ensure their legitimacy—as delays that could preclude the effective use of the SEVIS system until well beyond the published INS deadline of January 1, 2003.

   Further, the U. S. Department of State (State) implemented its Interim Student and Exchange Authentication System (ISEAS) to establish a temporary system for the electronic monitoring of the foreign student and exchange visitor visa issuance process until SEVIS is operational. State announced and made available on September 11, 2002 this temporary electronic authentication system to fulfill the mandate. State is requiring the use of the temporary ISEAS system for the electronic authentication of all F, J, and M visas beginning September 11, 2002. The ISEAS system was announced without much advance notice and surprised many in the higher education community.

   State issued final regulations on September 18, 2002 for the implementation of ISEAS and to make its requirements identical to SEVIS requirements regarding the participation of all exchange visitor applications. State expects to continue the use of ISEAS until SEVIS is "fully" implemented. ISEAS is to facilitate the collection and transmission of students and exchange visitor applicant data by State, the INS "approved" educational and other educational institutions, and exchange visitor programs. The purpose of this process is to ensure that visa requirements are met before student or visitor visas are issued and that students and exchange visitors, in fact, enroll in the institutions and programs that formed the basis of their visa classifications.

   On September 19, under the Privacy Act of 1974, the U. S. Department of Education (ED) published a Computer Matching Program notice in the Federal Register. It calls for computer matching between the Department of Education (the recipient agency), and the INS, Department of Justice (the source agency). The matching program entitled ``Systematic Alien Verification for Entitlement (SAVE) INS/ED'' will permit ED to confirm the immigration status of alien applicants for, or recipients of, assistance as authorized by Title IV, section 484(a)(5), of the Higher Education Act of 1965, as amended (HEA); 20 U.S.C. 1091(a)(5).

   Without State, INS, and the U. S. Department of Education working closely together to coordinate these systems and, if necessary, consolidate and phase them into one common database, scarce government resources are wasted and students and institutions are left in a real bind.

2) We want to preserve the model that Ms. Shortt embraced when she worked so closely with the INS to make CIPRIS a successful system. It was a positive experience in the end. We understand that all software programs are problematic at the outset of their implementation. Therefore, we know that SEVIS will eventually be a good system. The INS should be given the time to make the SEVIS program brilliant instead of releasing a program that is shoddily thrown together and unworkable.

3) The Help desk should be given the tools to properly communicate with campuses experiencing these bugs and assist them in resolving the software problems. Additionally, we recommend there be a good technical interface between the software developer and the end user so the bugs are found and fixed in a timely manner.

4) Further, our campuses should be provided the appropriate training so they can efficiently and effectively use the system and comply with all INS regulations.

5) There should be a capacity to create manual work-arounds for the inevitable software problems therefore preventing harm to real life students.

Suggestions and Offer of Assistance to INS:

In its June 14, 2002 letter to the INS, AASCU identified issues that concerned our members and we suggested alternatives to help INS implement SEVIS. The committee may be interested in pursuing our suggestions by asking INS officials to update you on these issues and to report what they have done to implement our recommendations.

1) **Issue: Certification and Validation of SEVIS**

AASCU urges that INS move quickly to fully implement the SEVIS system and that the certification review by the Inspector General or any other impartial validating authority be made a top priority to complete the certification review post haste.

2) **Issue: Certification of Colleges and Universities to Host International Students**

This function, which should already be underway, could be accomplished for regionally accredited colleges and universities within a four-month period. INS needs to make this a priority. While there may be specialized, non-accredited entities (including those for whom M-1 visas are issued) that would require additional time, certification of regionally accredited colleges and universities can be done forthwith. If, for any reason, INS cannot meet the deadline, AASCU institutions will gladly step in to assist as part of the process-offering experts from our campuses who would work with INS representatives to evaluate campuses in conformity with legislative and regulatory requirements and permissible agency guidelines. (Peer review by experts is a long-established process in the Academy.)

We understand that INS is floating the idea of contracting out this responsibility. Contracting for such a task takes time, requires management oversight, and

could delay the implementation. We are concerned that a contractor would not have the expertise to properly interpret the law, demonstrate an understanding of higher education, and be able to complete the job in reasonable time. If a contractor were clearly able to do all this, we would be pleased. If not, we need to move quickly to a better plan.

3) **Issue: Automatic Provision for the Issuing of Visa Waivers**

We favor ending the nearly automatic provision for the issuing of visa waivers. Colleges and universities recognize that waivers are at times necessary, but we do not countenance their routine issuance.

4) **Issue: Revamping of the I-20 Form**

We favor the revamping of the I-20 form to prevent counterfeiting and other fraudulent misrepresentations.

5) **Issue: Formal Training Program for Campus Officials**

We agree with the Office of the Inspector General that a formal training program for campus officials is important to insure the success of the SEVIS system. If the INS is to conduct such a training program, our colleges and universities willingly will participate. We believe that such programs can be developed and provided by late fall at the latest.

If it would be helpful, higher education representatives with expertise in training and continuing education could be called upon to assist with this process. Federal officials, however, would need to approve the program design, structure training components, and provide appropriate materials. It is immaterial who does the training as long as knowledgeable individuals do the job and it is done this calendar year.

6) **Issue: Monetary Impact from SEVIS on Institutions**

AASCU agrees with comments submitted by other members of the higher education community that point out the circumstance of institutions that have large nonimmigrant student populations and opt to develop in-house systems. We understand, for example, that Johns Hopkins University has estimated its initial costs at up to $500,000 (based on 4000-5000 hours of expected IT effort.) These figures do not include future training, software licenses, staffing, and other attendant maintenance costs. Costs for institutions that purchase systems will vary substantially as well - estimates ranging from $15,000 to $25,000 for start-up software, plus significant yearly maintenance and IT staffing and server costs.

Institutions that pay the costs of implementing their own systems should not be expected to pay for SEVIS twice - once for developing or purchasing their own software and systems and later for the system that is designed when SEVIS become fully operational. This outcome could be avoided it the certification process is expedited to meet the INS timeline for completion.

7) **Issue: Designated School Official (DSO) Limitation**

AASCU does not support limiting college and university DSOs to any fixed number. The rule proposes a continuation of five-person limit on the number of DSOs that can be employed by an institution. Such a rule does not fairly consider the diverse range of capabilities and resources among institutions.

We thank Chairman McKeon, Congresswoman Mink and the entire Twenty-first Century Competitiveness Subcommittee for your leadership on the SEVIS issue and support for international students. It is an honor for AASCU to be invited to testify today and we are grateful to be included in today's hearing.

AASCU Attachment 1, for testimony submitted to the House Committee on Education and the Workforce Subcommittee on Twenty-first Century Competitiveness on September 24, 2002.

Original Recipients:
The Honorable Sam Brownback, United States Senate
The Honorable John Conyers, Ranking Member, House Committee on the Judiciary
The Honorable George Gekas, United State House of Representatives
The Honorable Orrin Hatch, Ranking Member, Senate Judiciary Committee
The Honorable Sheila Jackson Lee, United States House of Representatives
The Honorable Edward Kennedy, United States Senate
The Honorable Patrick Leahy, Chairman, Senate Judiciary Committee
The Honorable F. James Sensenbrenner, Chairman, House Committee on the Judiciary

June 7, 2002

Dear --:

Recent newspaper articles refer to college officials opposing provisions of the new SEVIS system and raising questions about the January 30, 2003 timetable for implementing that system.

While undoubtedly there are higher education individuals expressing such viewpoints, I write to indicate that the vast majority of higher education leaders, including the over 400 presidents, chancellors and heads of state systems who are part of the American Association of State Colleges and Universities (AASCU), firmly support the SEVIS system and pledge their full support for the implementation of that system by the reasonable date of January 30, 2003. Much work needs to be done, as the Office of Inspector General in the Justice Department accurately pointed out in its report of May 20, 2002. However, the January 30 deadline is achievable, and institutions will do their part in assisting INS to implement the SEVIS system.
We suggest the following:

1. The first step as required by law is the certification of colleges and universities to host international students. This function, which should already be underway, could be accomplished for regionally accredited colleges and universities within a four-month period. INS needs to make this a priority. While there may be specialized, nonaccredited entities (including those for whom M1 visas are issued) that would require additional time, certification of regionally accredited colleges and universities can be done forthwith. If, for any reason, INS cannot meet the deadline, AASCU institutions will gladly step in to assist as part of the process-offering experts from our campuses who would work with INS representatives to evaluate campuses in conformity with legislative and regulatory requirements and permissible agency guidelines. (Peer review by experts is a long-established process in the Academy.) We understand that INS is floating the idea of contracting out this responsibility. Contracting for such a task takes time, requires management oversight, and could delay the implementation. We are concerned that a contractor would not have the expertise to properly interpret the law, demonstrate an understanding of higher education, and be able to complete the job in reasonable time. If a contractor is

clearly able to do all this, we would be pleased. If not, we need to move quickly to a better plan.

2. We favor ending the nearly automatic provision for the issuing of visa waivers. Colleges and universities recognize that waivers are at times necessary, but we do not countenance their routine issuance.

3. We favor the revamping of the I-20 form to prevent counterfeiting and other fraudulent misrepresentations.

4. We agree with the Office of the Inspector General that a formal training program for campus officials is important to insure the success of the SEVIS system. If the INS is to conduct such a training program, our colleges and universities willingly will participate. We believe that such programs can be developed and provided by late fall at the latest.

If it would be helpful, higher education representatives with expertise in training and continuing education could be called upon to assist with this process. Federal officials, however, would need to approve the program design, structure training components, and provide appropriate materials. It is immaterial who does the training as long as knowledgeable individuals do the job and it is done this calendar year.

These four points are presented not only to clarify where public colleges and universities stand, but also to suggest ways we can accelerate the effective implementation of the SEVIS system. International students are important to the United States. They are critical to the globalization efforts of our campuses; they promote stronger ties between the United States and home nations of visitors, who often become civic and economic leaders; they help build America's education and scientific preeminence; they even provide revenue to offset our nation's negative balance of payments.

Colleges and universities welcome international students. Yet no president or chancellor wants terrorists on the campus, or anywhere in the country. We believe that a strong, technologically advanced visitor information system is needed. We want SEVIS to be implemented as soon as possible, and pledge our support to achieve that end.

With kindest regards,

Constantine W. (Deno) Curris
President

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